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NEW DELHI, JULY 23—JULY 29, 2017, SATURDAY/SRAVANA 1—SRAVANA 7, 1939

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत एवं पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 19 जुलाई, 2017

का.आ. 1710.—केन्द्र सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केरल राज्य सरकार, गृह (एम) विभाग, तिरुअंतपुरम की अधिसूचना सं. जीओ(एमएस) सं. 203/2015/होम तथा एसआरओ सं. 605/2015 दिनांक 14.09.2015 के माध्यम से प्राप्त सहमति से माल्यात्योर वन प्रभाग और आसपास के भूभाग के वन क्षेत्रों में जंगली हाथियों के शिकार से संबंधित माल्यात्योर वन प्रभाग के कुट्टमपूजा वन रेंज के ओआर संख्या 2/2015 (कुट्टमपूजा पुलिस स्टेशन का अपराध सं. 295/2015, ओआर संख्या 1/2015 (कुट्टमपूजा पुलिस स्टेशन का अपराध सं. 290/2015) तथा इडमल्यार वन स्टेशन के ओआर संख्या 2/2015, थूंडाथिल वन रेंज के अंतर्गत करीमपानी वन स्टेशन के ओआर संख्या 2/2015, ओआर संख्या 3/2015, ओआर संख्या 5/2015, ओआर संख्या 6/2015, ओआर संख्या 7/2015, ओआर संख्या 8/2015 तथा ओआर संख्या 9/2015 के अंतर्गत दर्ज अपराध और राज्य के अंदर और बाहर हाथी दांत और कलाकृतियों के व्यापार तथा इससे सम्बद्ध मामलों की जांच के लिए दिल्ली विशेष पुलिस स्थापना की शक्तियों और क्षेत्राधिकार का विस्तार समस्त केरल राज्य में करती है।

[फा. सं. 228/51/2015-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**(Department of Personnel and Training)**

New Delhi, the 19th July, 2017

S.O. 1710.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Kerala, Home (M) Department, Thiruvananthapuram, vide Notification G.O. (Ms.) No. 203/2015/ Home and S.R.O. No. 605/2015 dated 14.09.2015, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Kerala to investigate into the offences involved in OR No. 2/2015 of Kuttampuzha Forest Range (Crime No. 295/2015 of Kuttampuzha Police Station), OR No. 1/2015 (Crime No. 290/2015 of Kuttampuzha Police Station) and OR No. 2/2015 of Edamalayar Forest Station, OR No. 2/2015, OR No. 3/2015, OR No. 5/2015, OR No. 6/2015, OR No. 7/2015, OR No. 8/2015 and OR No. 9/2015 of Karimpani Forest Station coming under Thundathil Forest Range in Malayattoor Forest Division relating to the hunting of wild elephants in the Forest areas of Malayattoor Forest Division and adjoining landscapes and trading of tusks and artifacts within and outside the State and other matters connected thereto.

[F. No. 228/51/2015-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 19 जुलाई, 2017

का.आ. 1711.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए झारखंड राज्य सरकार, गृह विभाग, राँची की दिनांक 10 मार्च, 2015 की अधिसूचना सं. 10/सी.बी.आई.-602/2015-1374 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए छोटानागपुर क्षेत्रीय हैण्डलूम बुनकर सहकारिता संघ लिमिटेड, ईरबा, पोस्ट + थाना - ओरमांझी, राँची के पब्लिक फण्ड का दुरुपयोग, धोखाधड़ी, गबन से संबंधित दुष्प्रेरणा और षड्यंत्र तथा उक्त संव्यवहार में किए गए किन्हीं अन्य अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार संपूर्ण झारखण्ड राज्य में करने के लिए सहमति प्रदान करते हैं।

[फा. सं. 228/14/2015-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 19th July, 2017

S.O. 1711.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Jharkhand, Home Department, vide Notification No. 10/C.B.I.-602/2015-1374 dated 10.03.2015, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Jharkhand for investigation in the allegations of irregularities, fraud, embezzlement of Public funds of the Chhotanagpur Regional Handloom Weavers Co-operative Union Limited, Irba, P.O. & P.S. Ormanjhi, Ranchi, the abetment and conspiracy in relation to or in connent in with the said offences and any other offences in the aforesaid transaction.

[F. No. 228/14/2015-AVD-II]

S. P. R. TRIPATHI, Under Secy.

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1712.—भारतीय निर्यात-आयात बैंक अधिनियम, 1981 (1981 का 28) की धारा 6 की उप-धारा (1) के खंड (ड.) के उप-खंड (ii) के अनुसरण में, केन्द्रीय सरकार, एतद्वारा, श्रीमती उषा अनंतसुब्रमणियन के स्थान पर बैंक ऑफ इंडिया के प्रबंध निदेशक एवं मुख्य कार्यकारी अधिकारी श्री दीनबंधु महापात्रा को तत्काल प्रभाव से और अगले आदेशों तक, भारतीय निर्यात-आयात बैंक (एक्जिम बैंक) के निदेशक मंडल में निदेशक नामित करती है।

[फा.सं. 24/27/2002-आईएफ-I (खंड-VI)]

सौम्याजीत घोष, अवर सचिव

MINISTRY OF FINANCE
(Department of Financial Services)

New Delhi, the 25th July, 2017

S.O. 1712.—In pursuance of sub-clause (ii) of Clause (e) of sub-section (1) of Section 6 of the Export Import Bank of India Act, 1981 (28 of 1981), the Central Government hereby nominates Shri Dinabandhu Mohapatra, Managing Director & CEO, Bank of India, as a Director on the Board of Export Import Bank of India (EXIM Bank) vice Smt. Usha Ananthasubramaniam with immediate effect until further orders.

[F. No. 24/27/2002-IF-I (Vol-VI)]

SOUMYAJIT GHOSH, Under Secy.

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 10 जुलाई, 2017

का.आ. 1713.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद्वारा, केंद्र सरकार भारत के प्रधान कौंसलावास, शिकागो में श्री असीम मण्डल, सहायक अनुभाग अधिकारी को दिनांक 10 जुलाई, 2017 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है ।

[सं. टी-4330/01/2015]

प्रकाश चन्द, निदेशक (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 10th July, 2017

S.O. 1713.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Asim Mandal, Assistant Section Officer as Assistant Consular Officer in Consulate General of India, Chicago to perform the Consular services with effect from 10th July, 2017.

[No. T-4330/01/2015]

PRAKASH CHAND, Director (Consular)

नई दिल्ली, 10 जुलाई, 2017

का.आ. 1714.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद्वारा, केंद्र सरकार भारत के दूतावास, ट्यूनिस् में श्रीमति ए. ओ. फिलोमीना, सहायक अनुभाग अधिकारी को दिनांक 10 जुलाई, 2017 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है ।

[सं. टी-4330/01/2017]

प्रकाश चन्द, निदेशक (कौंसुलर)

New Delhi, the 10th July, 2017

S.O. 1714.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Smt. A.O. Philomina, Assistant Section Officer as Assistant Consular Officer in Embassy of India, Tunis to perform the Consular services with effect from 10th July, 2017.

[No. T-4330/01/2017]

PRAKASH CHAND, Director (Consular)

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1715.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, रोम में श्री अविनाश कुमार, सहायक अनुभाग अधिकारी को दिनांक 13 जुलाई, 2017 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2017]

प्रकाश चन्द, निदेशक (कौंसुलर)

New Delhi, the 13th July, 2017

S.O. 1715.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Sh. Avinash Kumar, Assistant Section Officer as Assistant Consular Officer in Embassy of India, Rome to perform the Consular services with effect from 13th July, 2017.

[No. T-4330/01/2017]

PRAKASH CHAND, Director (Consular)

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नई दिल्ली, 26 जुलाई, 2017

का.आ. 1716.—केन्द्रीय सरकार को यह प्रतीत होता है कि, इससे उपाबद्ध अनुसूची में उल्लिखित परिक्षेत्र की भूमि में कोयला अभिप्राप्त किए जाने की संभावना है;

और रेखांक संख्या एसईसीएल/बीएसपी/जीएम(पीएलजी)/भूमि/513, तारीख 12 जून, 2017 का, जिसमें उक्त अनुसूची में वर्णित भूमि क्षेत्र के ब्यौरे अन्तर्विष्ट हैं, निरीक्षण कलक्टर, जिला अनूपपुर (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाऊस स्ट्रीट, कोलकाता-700001 के कार्यालय में या साउथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पूर्वोक्त अनुसूची में वर्णित भूमि में कोयले का पूर्वक्षण करने के अपने आषय की सूचना देती है;

उपरोक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन की अवधि के भीतर भारसाधक अधिकारी या विभागाध्यक्ष (राजस्व), साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) को—

- (i) संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उसके ऊपर किसी अधिकार के अर्जन पर आक्षेप कर सकेगा; अथवा
- (ii) उक्त अधिनियम की धारा 4 की उप-धारा (3) के अधीन की गई किसी कार्रवाई से हुई या होने वाली संभावित किसी क्षति के लिये अधिनियम की धारा 6 के अधीन प्रतिकर का दावा कर सकेगा; या
- (iii) उक्त अधिनियम की धारा 13 की उप-धारा (1) के अधीन पूर्वक्षण अनुज्ञप्तियों के प्रभावहीन होने के संबंध में या उक्त अधिनियम की धारा 13 की उप-धारा (4) के अधीन खनन पट्टे प्रभावहीन होने के लिए प्रतिकर का दावा कर सकेगा और उसे उक्त अधिनियम की धारा 13 की उप-धारा (1) के खंड (i) से खंड (iv) में विनिर्दिष्ट मदों की बाबत उपगत व्यय को दर्शित करने के लिए पूर्वोक्त भूमि से संबंधित सभी मानचित्रों, चाटों और अन्य दस्तावेजों को परिदत्त कर सकेगा।

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आमाडांड II ब्लाक

(कुल्हरिया ब्लाक में अमृतधारा ओसीपी हेतु पहुँच मार्ग और मैगजीन)

जमुना कोतमा क्षेत्र

जिला—अनूपपुर, मध्य प्रदेश

[रेखांक संख्या एसईसीएल/बीएसपी/जीएम(पीएलजी)/भूमि/513, तारीख 12 जून, 2017]

क्रम सं.	ग्राम का नाम	पटवारी हल्का संख्या	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणियाँ
1.	आमाडांड	68	कोतमा	अनूपपुर	1.250	भाग
2.	मलगा	54	कोतमा	अनूपपुर	36.000	भाग
3.	भाठीसरई	70	कोतमा	अनूपपुर	7.700	भाग
4.	टॉकी	70	कोतमा	अनूपपुर	9.050	भाग
dny % 54-000 gDVj %yxHkx½ ; k 133-44 , dM+ %yxHkx½						

I hek&o.klu%

- क—ख रेखा ग्राम आमाडांड में बिन्दु 'क' से आरंभ होती है और ग्राम आमाडांड के उत्तरी भाग से गुजरती हुई ग्राम आमाडांड—मलगा के सम्मिलित सीमा में बिन्दु 'ख' पर मिलती है।
- ख—ख1 रेखा ग्राम मलगा में बिन्दु 'ख' से आरंभ होती है और ग्राम मलगा के पश्चिमी भाग से गुजरती हुई बिन्दु 'ख1' पर मिलती है।
- ख1—ख2 रेखा ग्राम मलगा में बिन्दु 'ख1' से आरंभ होती है और ग्राम मलगा के पश्चिमी भाग से गुजरती हुई बिन्दु 'ख2' पर मिलती है।
- ख2—ख3 रेखा ग्राम मलगा में बिन्दु 'ख2' से आरंभ होती है और ग्राम मलगा के पश्चिमी भाग से गुजरती हुई बिन्दु 'ख3' पर मिलती है।
- ख3—ग रेखा ग्राम मलगा में बिन्दु 'ख3' से आरंभ होती है और ग्राम मलगा के पश्चिमी भाग से गुजरती हुई ग्राम मलगा—भाठीसरई के सम्मिलित सीमा में बिन्दु 'ग' पर मिलती है।
- ग—घ रेखा ग्राम भाठीसरई में बिन्दु 'ग' से आरंभ होती है और ग्राम भाठीसरई के पश्चिमी भाग से होती हुई ग्राम भाठीसरई—टॉकी के सम्मिलित सीमा में बिन्दु 'घ' पर मिलती है।
- घ—ड—च रेखा ग्राम टॉकी में बिन्दु 'घ' से आरंभ होती है और ग्राम टॉकी के मध्य भाग, बिन्दु 'ड' से होती हुई बिन्दु 'च' पर मिलती है।
- च—च'—ड' रेखा ग्राम टॉकी में बिन्दु 'च' से आरंभ होती है और ग्राम टॉकी के मध्य भाग, बिन्दु 'च' से होती हुई बिन्दु 'ड' पर मिलती है।
- ड—घ' रेखा ग्राम टॉकी में बिन्दु 'ड' से आरंभ होती है और टॉकी के मध्य भाग से होती हुई ग्राम टॉकी—भाठीसरई के सम्मिलित सीमा में बिन्दु 'घ' पर मिलती है।
- घ—ग' रेखा ग्राम भाठीसरई में बिन्दु 'घ' से आरंभ होती है और ग्राम भाठीसरई के पश्चिमी भाग से होती हुई ग्राम भाठीसरई—मलगा के सम्मिलित सीमा में बिन्दु 'ग' पर मिलती है।
- ग—ख' रेखा ग्राम मलगा में बिन्दु 'ग' से आरंभ होती है और ग्राम मलगा के पश्चिमी भाग से गुजरती हुई ग्राम मलगा—आमाडांड के सम्मिलित सीमा में बिन्दु 'ख' पर मिलती है।
- ख—क' रेखा ग्राम आमाडांड में बिन्दु 'ख' से आरंभ होती है और ग्राम आमाडांड के उत्तरी भाग से गुजरती हुई बिन्दु 'क' पर मिलती है।
- क—क रेखा ग्राम आमाडांड में बिन्दु 'क' से आरंभ होती है और ग्राम आमाडांड के उत्तरी भाग से होती हुई आरंभिक बिन्दु 'क' पर मिलती है।

[फा. सं. 43015/31/2017—एलए एण्ड आईआर]

आर. एस. सरोज, अवर सचिव

MINISTRY OF COAL

New Delhi, the 26th July, 2017

S.O. 1716. —Whereas it appears to the Central Government that Coal is likely to be obtained from the lands in the locality mentioned in the Schedule annexed hereto;

And whereas, the plan bearing number SECL/ BSP/GM(PLG)/LAND/ 513, dated the 12th June, 2017 containing details of the area of land described in the said Schedule may be inspected at the office of the Collector, District Anuppur (Madhya Pradesh) or at the office of the Coal Controller, 1, Council House Street, Kolkata-700001 or at the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur - 495006 (Chhattisgarh);

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal in the land described in the aforesaid Schedule.

Any person interested in the land described in the above mentioned Schedule may-

- (i) object to the acquisition of the whole or any part of the land or of any rights in or over such land; or
- (ii) claim compensation under section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section (3) of Section 4 of the said Act; or
- (iii) claim compensation under sub-section (1) of section 13 of the said Act, in respect of prospecting license ceasing to have effect or under sub-section (4) of section 13 of the said Act for mining lease ceasing to have effect and deliver all maps, charts and other documents relating to the aforesaid land to show the expenditure incurred in respect of items specified in clauses (i) to (iv) of sub-section (1) of section 13 of the said Act,

to the Officer-In-Charge or Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495006 (Chhattisgarh) within a period of ninety days from the date of publication of this notification.

SCHEDULE

Amadand II Block

(Approach road to Amritdhara OCP in Kulharia Block and magazine)

Jamuna Kotma Area

District-Anuppur, Madhya Pradesh

(Plan bearing number SECL/ BSP/GM(PLG)/LAND/ 513, dated 12th June, 2017)

Sl. No.	Name of village	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1.	Amadand	68	Kotma	Anuppur	1.250	Part
2.	Malga	54	Kotma	Anuppur	36.000	Part
3.	Bhathisarai	70	Kotma	Anuppur	7.700	Part
4.	Tanki	70	Kotma	Anuppur	9.050	Part
Total: 54.000 hectares (approximately) or 133.44 acres (approximately)						

Boundary description:

- A-B Line starts from point 'A' in village Amadand and passes through northern part of village Amadand and meets at point 'B' on the common boundary of villages Amadand- Malga.
- B-B1 Line starts from point 'B' in village Malga and passes through western part of village Malga and meets at point 'B1'.
- B1-B2 Line starts from point 'B1' in village Malga and passes through western part of village Malga and meets at point 'B2'.

B2-B3	Line starts from point 'B2' in village Malga and passes through western part of village Malga and meets at point 'B3'.
B3-C	Line starts from point 'B3' in village Malga and passes through western part of village Malga and meets at point 'C' on the common boundary of villages Malga-Bhathisarai.
C-D	Line starts from point 'C' in village Bhathisarai and passes through western part of village Bhathisarai and meets at point 'D' on the common boundary of villages Bhathisarai- Tanki.
D-E-F	Line starts from point 'D' in village Tanki and passes through middle part of village Tanki, point 'E' and meets at point 'F'.
F-F'-E'	Line starts from point F in village Tanki and passes through middle part of village Tanki, point F' and meets at point E'.
E'-D'	Line starts from point E' in village Tanki and passes through middle part of village Tanki and meets at point D' on the common boundary of villages Tanki-Bhathisarai.
D'-C'	Line starts from point D' in village Bhathisarai and passes through western part of village Bhathisarai and meets at point C' on the common boundary of villages Bhathisarai - Malga.
C'-B'	Line starts from point C' in village Malga and passes through western part of village Malga and meets at point B' on the common boundary of villages Malga-Amadand.
B'-A'	Line starts from point B' in village Amadand and passes through northern part of village Amadand and meets at point A'.
A'-A	Line starts from point A' in village Amadand and passes through northern part of village Amadand and meets at starting point A.

[F. No. 43015/31/2017-LA&IR]

R. S. SAROJ, Under Secy.

LokLF; vkj i f j o k j dY; k. k ea=ky;

1/2 LokLF; vkj i f j o k j dY; k. k foHkx½

'kf) & i =

नई दिल्ली, 6 जून, 2017

dk-vk- 1717-इस विभाग की अधिसूचना सं. यू. 12012/01/2017-एमई-। दिनांक 25.04.17 के अनुक्रम में और भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956(1956 का 102) की धारा 11 की उप धारा(2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है, अर्थात:-

उक्त अनुसूची में-

ड) "स्वास्थ्य, आयुर्विज्ञान और प्रौद्योगिकी साइंसिस के सिविकम मणिपाल विश्वविद्यालय" के समक्ष 'पंजीकरण के लिए संक्षिप्तिकरण' कालम (3) शीर्षक के अंतर्गत एम. डी.(जनरल मेडिसिन) 'मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह सिविकम मणिपाल इंस्टिट्यूट ऑफ मेडिकल साइंसिस, गंगटोक में 2014 अथवा उसके पश्चात की बजाए केवल 2011-12 के अकादमिक सत्र में दाखिला दिए गए छात्रों को स्वास्थ्य, आयुर्विज्ञान और प्रौद्योगिकी साइंसिस का सिविकम मणिपाल विश्वविद्यालय द्वारा होगी"

"स्वास्थ्य, आयुर्विज्ञान और प्रौद्योगिकी साइंसिस के सिविकम मणिपाल विश्वविद्यालय" के समक्ष 'पंजीकरण के लिए संक्षिप्तिकरण' कालम(3) शीर्षक के अंतर्गत एम.डी.(पेडियाट्रिक्स) 'मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह मणिपाल इंस्टिट्यूट ऑफ मेडिकल साइंसिस, गंगटोक में 2014 अथवा उसके पश्चात की बजाए केवल 2011-12 अकादमिक दाखिला दिए गए छात्रों को स्वास्थ्य, आयुर्विज्ञान और प्रौद्योगिकी साइंसिस के सिविकम मणिपाल विश्वविद्यालय द्वारा प्रदत्त होगी"।

"स्वास्थ्य, आयुर्विज्ञान और प्रौद्योगिकी साइंसिस के सिविकम मणिपाल विश्वविद्यालय" के समक्ष 'पंजीकरण के लिए संक्षिप्तिकरण' कालम(3) शीर्षक के अंतर्गत एम.एस (ईएनटी) 'मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह सिविकम मणिपाल इंस्टिट्यूट ऑफ मेडिकल साइंसिस, गंगटोक में 2014 अथवा उसके पश्चात की बजाए केवल 2011-12 के

अकादमिक सत्र के छात्रों को स्वास्थ्य, आयुर्विज्ञान और प्रौद्योगिकी साइंस के सिक्किम मणिपाल विश्वविद्यालय द्वारा प्रदत्त होगी”।

“स्वास्थ्य, आयुर्विज्ञान और प्रौद्योगिकी साइंस के सिक्किम मणिपाल विश्वविद्यालय” के समक्ष ‘पंजीकरण के लिए संक्षिप्तकरण’ कालम(3) धीरे-धीरे के अंतर्गत एम.डी.(साइकियाट्री) ‘मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह सिक्किम मणिपाल ऑफ मेडिकल साइंस, गंगटोक में 2015 अथवा उसके पश्चात की बजाए केवल 2013-13 के अकादमिक सत्र में दाखिला दिए छात्रों को स्वास्थ्य, आयुर्विज्ञान और प्रौद्योगिकी साइंस के सिक्किम मणिपाल विश्वविद्यालय द्वारा प्रदत्त होगी”।

[सं. यू-12012/01/2017-एमई-1]

डी. वी. के. राव, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

CORRIGENDUM

New Delhi, the 6th June, 2017

S.O. 1717.—In continuation to this Department’s Notification No. U.12012/01/2017-ME-I dated 25.04.17, and in exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956(102 of 1956), the Central Government, hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule –

- e) against “Sikkim Manipal University of Health, Medical and Tech. sciences” under the heading ‘Abbreviation for Registration’ (column 3), the MD(General Medicine) qualification shall be a recognised medical qualification when granted by Sikkim Manipal University of Health, Medical and Tech. sciences in respect of students admitted at Sikkim Manipal Institute of Medical Sciences, Gangtok in the academic year 2011-12 only instead of on or after 2014”.

against “Sikkim Manipal University of Health, Medical and Tech. sciences” under the heading ‘Abbreviation for Registration’ (column 3), the MD (Paediatrics) qualification shall be a recognised medical qualification when granted by Sikkim Manipal University of Health, Medical and Tech. sciences in respect of students admitted at Sikkim Manipal Institute of Medical Sciences, Gangtok in the academic year 2011-12 only instead of on or after 2014”.

against “Sikkim Manipal University of Health, Medical and Tech. sciences” under the heading ‘Abbreviation for Registration’ (column 3), the MS (ENT) qualification shall be a recognised medical qualification when granted by Sikkim Manipal University of Health, Medical and Tech. sciences in respect of students at Sikkim Manipal Institute of Medical Sciences, Gangtok in the academic year 2011-12 only instead of on or after 2014”.

against “Sikkim Manipal University of Health, Medical and Tech. sciences” under the heading ‘Abbreviation for Registration’ (column 3), the MD(Psychiatry) qualification shall be a recognised medical qualification when granted by Sikkim Manipal University of Health, Medical and Tech. sciences in respect of students admitted at Sikkim Manipal Institute of Medical Sciences, Gangtok in the academic year 2012-13 only instead of on or after 2015”.

[No. U-12012/01/2017-ME-I]

D. V. K. RAO, Under Secy.

'k) & i =

नई दिल्ली, 15 जून, 2017

dk-vk- 1718-इस विभाग की अधिसूचना सं. यू-12012/01/2017-एमई-1. पार्ट VI दिनांक 20.02.2017 के अनुक्रम में और भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है, अर्थात:-

उक्त अनुसूची में-

ड) “केरल स्वास्थ्य विज्ञान विष्वविद्यालय, तृष्शूर” के समक्ष ‘पंजीकरण के लिए संक्षिप्तिकरण’ कालम (3) शीर्षक के अंतर्गत एम.डी.(डीवीएल) ‘मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह गवर्नमेंट मेडिकल कॉलेज, तृष्शूर में 2015 की बजाए 2013 उसके पश्चात प्रशिक्षित किए गए छात्रों को केरल स्वास्थ्य विज्ञान विष्वविद्यालय, तृष्शूर द्वारा प्रदत्त होगी।

[सं. यू-12012/01/2017-एमई-1.पार्ट VI]

डी. वी. के. राव, अवर सचिव

CORRIGENDUM

New Delhi, the 15th June, 2017

S.O. 1718.—In continuation to this Department’s Notification No. U.12012/01/2017-ME-I pt.VI dated 20.02.17, and in exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule –

against “Kerala University of Health Sciences, Thrissur” under the heading ‘Abbreviation for Registration’ (column 3), the MD(DVL) qualification shall be a recognised medical qualifications when granted by Kerala University of Health Sciences, Thrissur in respect of students being trained at Government Medical College, Thrissur on or after 2013 instead of 2015”.

[No. U.-12012/01/2017-ME-I pt.VI]

D. V. K. RAO, Under Secy.

नई दिल्ली, 27 जून, 2017

dk-vk- 1719-&भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है, अर्थात:-

उक्त प्रथम अनुसूची में ‘मान्यता प्राप्त आयुर्विज्ञान अर्हता’ शीर्षक के अधीन [जिसे इसके आगे कालम (2) कहा गया है] “महाराष्ट्र स्वास्थ्य विज्ञान विष्वविद्यालय, नासिक, महाराष्ट्र” सामने अंतिम प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा. अर्थात:-

(2)

(3)

“बेचलर ऑफ मेडिसिन एंड बेचलर ऑफ सर्जरी

एम.बी.बी.एस.

(यह एक मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह अखिनी रूरल मेडिकल कॉलेज, अस्पताल और रिसर्च सेंटर, सोलापुर, महाराष्ट्र में प्रकाशित किए गए छात्रों के संबंध में जनवरी, 2017 को या बाद में, महाराष्ट्र स्वास्थ्य विज्ञान विष्वविद्यालय, नासिक, महाराष्ट्र द्वारा प्रदत्त होगी।)

- ukv/% 1. एमबीबीएस डिग्री के लिए अधोस्नातक कोर्स को दी गई ऐसी मान्यता अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।
2. मान्यता के ‘नवीकरण’ प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू है।
3. मान्यता के समय से नवीकरण करवाने में विफल रहने पर, परिणामस्वरूप, निरपवाद रूप से, उक्त अधोस्नातक कोर्स में प्रवेश बंद हो जाएगा।

[फा. सं. यू-12012/27/2017- एमई-1 एफटीएस.3104681]

डी. वी. के. राव, अवर सचिव

New Delhi, the 27th June, 2017

S.O. 1719.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act.

In the said First Schedule after “Maharashtra University of Health Sciences, Nashik” and under the heading ‘Recognized Medical Qualification’ [Hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
“Bachelor of Medicine and Bachelor of Surgery”	M.B.B.S. (This shall be a recognized medical qualification when granted by Maharashtra University of Health Sciences, Nashik in respect of 100 MBBS students being trained at Ashwini Rural Medical College, Hospital & Research Centre, Solapur, Maharashtra on or after, January.2017.

- Note :**
1. The recognition so granted to an undergraduate Course for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.
 2. The procedure for ‘Renewal’ of recognition shall be same as applicable for the award for recognition.
 3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admissions to the concerned undergraduate Course.

[F. No. U-12012/27/2017-ME-I FTS.3104681]

D. V. K. RAO, Under Secy.

नई दिल्ली, 4 जुलाई, 2017

dk-vk- 1720-&भारतीय आयुर्विज्ञान परिषद अधिनियम 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है, अर्थात:-

उक्त प्रथम अनुसूची में:-

क) ‘मान्यता प्राप्त आयुर्विज्ञान अर्हता’ [जिसे इसके आगे कालम(2) कहा गया है] शीर्षक के अधीन डॉ.एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश के सामने अंतिम प्रविष्टि के पश्चात और ‘पंजीकरण के लिए संक्षिप्तीकरण’ [जिसे इसके आगे कालम (3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा. अर्थात:-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन(जनरल मेडिसिन)	एमडी (जनरल मेडिसिन) यह एक मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह बांतिराम मेडिकल कॉलेज, नंडयाल, करनूल में प्रशिक्षित किए गए छात्रों के संबंध में 2014 को या बाद में डॉ.एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा प्रदत्त होगी।
मास्टर ऑफ सर्जरी (जनरल सर्जरी)	एमएस(जनरल सर्जरी) (यह एक मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह कोनासीमा इंस्टीट्यूट ऑफ मेडिकल साइंसिस एंड रिसर्च फाउंडेशन, में 2015 को अथवा बाद में प्रशिक्षित किए गए छात्रों के संबंध में डॉ.एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा प्रदत्त होगी।
मास्टर ऑफ सर्जरी (ओबीजी)	(यह एक मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह कोनासीमा इंस्टीट्यूट ऑफ मेडिकल साइंसिस एंड रिसर्च फाउंडेशन, में 2015 को अथवा बाद में प्रशिक्षित किए गए छात्रों के संबंध में डॉ.एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा प्रदत्त होगी।

- ukv/% 1. स्नातकोत्तर पाठ्यक्रम को दी गई ऐसी मान्यता अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।
2. मान्यता के 'नवीकरण' की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।
3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने पर, परिणामस्वरूप, निरपवाद रूप से संबंधित स्नातकोत्तर पाठ्यक्रम में प्रवेश बंद हो जाएगा।

[फा. सं. यू-12012/01/2017-एमई-1]

डी. वी. के. राव, अवर सचिव

New Delhi, the 4th July, 2017

S.O. 1720.—In exercise of the powers conferred by sub-section(2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act.

In the said First Schedule:-

a) against "Dr NTR University of Health Sciences, Vijaywada, Andhra Pradesh" and under the heading 'Recognized Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
"Doctor of Medicine (General Medicine)"	MD (General Medicine) (This shall be a recognized medical qualification when granted by Dr NTR University of Health Sciences, Vijaywada, Andhra Pradesh in respect of students being trained at Santhiram Medical College, Nandyal, Kurnool on or after 2014.
Master of Surgery (General Surgery)	MS (General Surgery) (This shall be a recognized medical qualification when granted by Dr NTR University of Health Sciences, Vijaywada, Andhra Pradesh in respect of students being trained at Konaseema Institute of Medical Sciences & Research Foundation on or after 2015.
Master of Surgery (OBG)	MS (OBG) (This shall be a recognized medical qualification when granted by Dr NTR University of Health Sciences, Vijaywada, Andhra Pradesh in respect of students being trained at Konaseema Institute of Medical Sciences & Research Foundation on or after 2015.

- Note:**
1. The recognition so granted to a Postgraduate Course shall be for a maximum period of 5 years, upon which it shall have to be renewed.
 2. The procedure for 'Renewal' of recognition shall be same as applicable for the award of recognition.
 3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[F. No.U-12012/01/2017-ME-I]

D. V. K. RAO, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 4 जुलाई, 2017

का.आ. 1721.—केन्द्रीय सरकार, पेट्रोलियम एवं खनिज पाइपलाइन (भूमि में अधिकार के उपयोग का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में, 5 अक्टूबर 2016 को प्रकाशित, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 3154 (अ) में निम्नलिखित रूप में संशोधन करती है,

"श्री नरेश कुमार गोयल" शब्दों के स्थान पर, " श्री महेश कुमार " शब्द रखे जाएंगे।

यह अधिसूचना जारी होने की तारीख से लागू होगी।

[फा.सं. आर-25011/14/2012-ओआर-I (पार्ट)/48578]

पवन कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 4th July, 2017

S.O. 1721.—In pursuance of Clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendment in the notification of Government of India in Ministry of Petroleum and Natural Gas S.O. No. 3154 (E) published in the Gazette of India on 5 October 2016, namely:

In said notification, for words : Shri Naresh Kumar Goyal" the words " Shri Mahesh Kumar" shall be substituted.

The notification will be effective from date of issue.

[F. No. R-25011/14/2012-OR-I(Pt.)/48578]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 19 जुलाई, 2017

का.आ. 1722.—पेट्रोलियम और खनिज पाइपलाइन (भूमि में प्रयोगकर्ता के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में, केन्द्र सरकार एतद्वारा सुश्री राजम्मा चौड़ा रेड्डी - केएस (सीनियर स्केल) कर्नाटक सरकार को, कर्नाटक राज्य की प्रादेशिक सीमाओं में, उक्त अधिनियम के अन्तर्गत पेट्रोनेट एमएचबी लिमिटेड, मंगलोर-हसन-बंगलोर पेट्रोलियम पाइपलाइन के लिए सक्षम प्राधिकारी के कार्यों का निर्वहन करने हेतु प्रतिनियुक्ति पर अधिकारी के रूप में प्राधिकृत करती है।

[सं. आर-31015/7/2011-ओआर-II/15210]

पवन कुमार, अवर सचिव

New Delhi, the 19th July, 2017

S.O. 1722.— In pursuance of clause (a) of section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in land) Act, 1962 (50 of 1962), the Central Government hereby authorizes Ms. Rajamma A. Chowdareddy – KAS (Senior Scale), Government of Karnataka as Officer on deputation to Petronet MHB Limited to perform the functions of Competent Authority for Petronet MHB Limited, Mangalore-Hassan-Bangalore Petroleum Pipeline, under the said Act, within the territory of the State of Karnataka.

[No. R-31015/7/2011-OR-II/15210]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 26 जुलाई, 2017

का.आ. 1723.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि तेलंगाना राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप - हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इससे उपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. नारायणा राव, सक्षम प्राधिकारी (तेलंगाना), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, प्लॉट संख्या 264/ए, दूसरी मंजिल, कैनरा बैंक के ऊपर, मार्ग संख्या 10, जुबिली हिल्स, हैदराबाद-500033, तेलंगाना राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: यादद्री भुवनगिरि

राज्य: तेलंगाना

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
चौदुप्पल	जै केसारम	147	00	06	97
चौदुप्पल	एस लिंगोटम	268/3	00	29	81
		146	00	03	91
		157	00	66	77
		155	00	40	90
		206	00	27	49
		205	00	34	73
		204	00	23	09
		201	00	27	76
		200	00	01	26

		213	00	21	28
		कच्चा रास्ता	00	01	89
		215	00	30	25
		216	00	27	14
		249	00	30	26
		248	00	56	91
		252	00	07	10
		266	00	90	35
		268/1	00	86	36
		120	00	50	20
		119	00	54	12
		118	00	20	75
		117	00	14	76
		125	00	27	77
		142	00	46	24
		141	00	14	05
		145	00	30	91
		122	00	37	57
		121	00	01	71
चौटुप्पल	चिन्ना कोन्डूरु	949	00	67	96
		948	00	09	38
		913	00	47	81
		915	00	20	27
		920	00	19	55
		923	00	32	23
		925	00	23	30
		924	00	27	31
		927	00	45	40

946	00	01	66
945	00	08	30
950	00	46	11
786	00	37	31
815	00	19	18
816	00	43	18
रास्ता	00	03	26
833	00	30	48
832	00	21	21
831	00	12	91
829	00	35	31
884	00	20	48
883	00	00	24
894	00	11	17
893	00	20	71
906	00	07	17
905	00	36	82
620	00	34	67
कच्चा रास्ता	00	02	85
629	00	38	15
721	00	07	23
722	00	32	80
720	00	00	47
719	00	49	65
718	00	30	16
715	00	30	65
714	00	28	69
711	00	39	46

		765	00	22	28
		768	00	19	56
		770	00	04	34
		771	00	06	23
		796	00	22	82
		794	00	04	91
		793	00	24	94
		792	00	35	72
		785	00	13	15
		621	00	34	21
		622	00	02	52
चौटुप्पल	खैरतपूर	8	00	16	55
		7	00	41	48
		6	00	02	67
चौटुप्पल	मल्कापूर	344	00	43	95
		346	00	55	57
		347	00	53	33
		348	00	24	02
		349	00	33	15
		231	00	63	96
		234	00	42	98
		235	00	44	54
		236	00	08	84
		222	00	00	51
		237	00	02	66
		221	00	12	42
		238	00	04	89
		239	00	17	26

159	00	01	36
240/1	00	05	18
240/7	00	09	20
158	00	02	64
156	00	02	49
142	00	19	07
143	00	47	72
122	00	38	88
120	00	51	69

[फा.सं. आर-25011/2/2017-ओआर-I/48332/ई-13386]

पवन कुमार, अवर सचिव

New Delhi, the 26th July, 2017

S.O. 1723.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the State of Telangana a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. Narayana Rao, Competent Authority (Telangana), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 264/A, 2nd Floor, above Canara Bank, Road No. 10, Jubilee Hills, Hyderabad - 500 033 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE**District : Yadadri Bhongir****State : Telangana**

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
Choutuppal	Jai Kesaram	147	00	06	97
Choutuppal	S. Lingotam	268/3	00	29	81
		146	00	03	91
		157	00	66	77
		155	00	40	90
		206	00	27	49
		205	00	34	73
		204	00	23	09

		201	00	27	76
		200	00	01	26
		213	00	21	28
		Cart Track	00	01	89
		215	00	30	25
		216	00	27	14
		249	00	30	26
		248	00	56	91
		252	00	07	10
		266	00	90	35
		268/1	00	86	36
		120	00	50	20
		119	00	54	12
		118	00	20	75
		117	00	14	76
		125	00	27	77
		142	00	46	24
		141	00	14	05
		145	00	30	91
		122	00	37	57
		121	00	01	71
Choutuppal	Chinna Kondur	949	00	67	96
		948	00	09	38
		913	00	47	81
		915	00	20	27
		920	00	19	55
		923	00	32	23
		925	00	23	30
		924	00	27	31
		927	00	45	40
		946	00	01	66
		945	00	08	30
		950	00	46	11
		786	00	37	31
		815	00	19	18
		816	00	43	18
		Road	00	03	26
		833	00	30	48
		832	00	21	21
		831	00	12	91
		829	00	35	31
		884	00	20	48

		883	00	00	24
		894	00	11	17
		893	00	20	71
		906	00	07	17
		905	00	36	82
		620	00	34	67
		Cart Track	00	02	85
		629	00	38	15
		721	00	07	23
		722	00	32	80
		720	00	00	47
		719	00	49	65
		718	00	30	16
		715	00	30	65
		714	00	28	69
		711	00	39	46
		765	00	22	28
		768	00	19	56
		770	00	04	34
		771	00	06	23
		796	00	22	82
		794	00	04	91
		793	00	24	94
		792	00	35	72
		785	00	13	15
		621	00	34	21
		622	00	02	52
Choutuppal	Khairathpur	8	00	16	55
		7	00	41	48
		6	00	02	67
Choutuppal	Malkapur	344	00	43	95
		346	00	55	57
		347	00	53	33
		348	00	24	02
		349	00	33	15
		231	00	63	96
		234	00	42	98
		235	00	44	54
		236	00	08	84
		222	00	00	51
		237	00	02	66
		221	00	12	42

238	00	04	89
239	00	17	26
159	00	01	36
240/1	00	05	18
240/7	00	09	20
158	00	02	64
156	00	02	49
142	00	19	07
143	00	47	72
122	00	38	88
120	00	51	69

[F. No. R-25011/2/2017-OR-I/48332/E-13386]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 26 जुलाई, 2017

का.आ. 1724.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि तेलंगाना राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप - हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. नारायणा राव, सक्षम प्राधिकारी (तेलंगाना), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, प्लॉट संख्या 264/ए, दूसरी मंजिल, कैनरा बैंक के ऊपर, मार्ग संख्या 10, जुबिली हिल्स, हैदराबाद-500033, तेलंगाना राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची**जिला: यादद्री भुवनगिरि****राज्य: तेलंगाना**

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
बी. पोचमपल्ली	जिब्लक पल्लि	298	00	23	26
		295	00	10	99
		293	00	31	35

292	00	21	65
291	00	17	56
290	00	39	58
198	00	17	36
कच्चा रास्ता	00	01	40
304	00	50	39
303	00	10	87
302	00	39	54
300	00	00	02
301	00	10	76
299	00	42	69
212	00	06	36
211	00	15	33
209	00	14	96
208	00	13	69
203	00	03	08
202	00	43	96
200	00	27	00
199	00	23	57
196	00	00	06
197	00	29	28
178	00	26	81
225	00	68	35
224	00	23	16
227	00	69	96
162/2	00	10	73

162/1	00	01	47
165/1	00	00	25
165/2	00	09	18
167/2	00	00	04
166	00	16	99
168/3	00	19	96
172	00	67	27
177	00	32	71
163	00	13	01
164	00	00	10
128	00	02	51

[फा.सं. आर-25011/2/2017-ओआर-I/48332/ई-13386]

पवन कुमार, अवर सचिव

New Delhi, the 26th July, 2017

S.O. 1724.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the State of Telangana a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. Narayana Rao, Competent Authority (Telangana), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 264/A, 2nd Floor, above Canara Bank, Road No. 10, Jubilee Hills, Hyderabad - 500 033 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

District : Yadadri Bhongir

State : Telangana

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
B. Pochampally	Jiblak Palle	298	00	23	26
		295	00	10	99
		293	00	31	35

292	00	21	65
291	00	17	56
290	00	39	58
198	00	17	36
Cart Track	00	01	40
304	00	50	39
303	00	10	87
302	00	39	54
300	00	00	02
301	00	10	76
299	00	42	69
212	00	06	36
211	00	15	33
209	00	14	96
208	00	13	69
203	00	03	08
202	00	43	96
200	00	27	00
199	00	23	57
196	00	00	06
197	00	29	28
178	00	26	81
225	00	68	35
224	00	23	16
227	00	69	96
162/2	00	10	73
162/1	00	01	47
165/1	00	00	25
165/2	00	09	18
167/2	00	00	04
166	00	16	99
168/3	00	19	96
172	00	67	27
177	00	32	71
163	00	13	01
164	00	00	10
128	00	02	51

[F. No. R-25011/2/2017-OR-I/48332/E-13386]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 26 जुलाई, 2017

का.आ. 1725.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि तेलंगाना राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप - हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. नारायणा राव, सक्षम प्राधिकारी (तेलंगाना), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, प्लॉट संख्या 264/ए, दूसरी मंजिल, कैनरा बैंक के ऊपर, मार्ग संख्या 10, जुबिली हिल्स, हैदराबाद-500033, तेलंगाना राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: यादाद्री भुवनगिरि

राज्य: तेलंगाना

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
रामन्नपेट	उत्तूर	249	00	46	72
		247	00	08	16
		250	00	21	52
		251	00	26	72
		259	00	39	94
		260	00	33	01
		261	00	11	52
		262	00	37	99
		280	00	29	18
		281	00	29	03

	282	00	37	94
	रास्ता	00	02	41
	302	00	23	21
रामन्नपेट	रामन्नपेटा	385	00	45
	313	00	33	29
	314	00	28	64
	315	00	45	76
	316	00	25	09
	कच्चा रास्ता	00	03	58
	370	00	09	89
	369	00	40	69
	368	00	30	91
	367	00	32	84
	392	00	67	69
	387	00	44	36
	386	00	01	77
	266	00	41	40
	263	00	00	18
	283	00	35	40
	284	00	30	21
	287	00	25	43
	289	00	27	20
	293	00	23	43
	294	00	22	60
	261/9	00	14	55
	261/8	00	06	77
	261/7	00	20	27
	261/5	00	18	16

		265	00	42	99
रामन्नपेट	सिरिपुरम	276	00	33	78
		281	00	09	74
		282	00	46	04
		283	00	58	03
		272	00	42	41
		160	00	54	41
		150	00	00	67
		151	00	00	13
		159	00	41	41
		158	00	58	04
	कच्चा रास्ता		00	01	90
		157	00	42	95
		189	00	22	44
		188	00	24	41
		249	00	33	05
		250	00	51	41
		251	00	30	88
	कच्चा रास्ता		00	01	83
		277	00	47	79
		162	00	26	11
		161	00	36	63
रामन्नपेट	एल्लन्कि	285	00	33	08
		345	00	36	25
		340	00	18	41
		311	00	24	26
		312	00	25	22
		313	00	28	24

339	00	01	37
314	00	28	19
320	00	51	76
322	00	61	07
323	00	24	24
232	00	45	33
235	00	32	61
277	00	17	80
278	00	45	58
283	00	41	92
270	00	27	34
284	00	23	67
175	00	26	92
176	00	34	99
212	00	68	84
207	00	17	89
205	00	02	27
206	00	38	32
233	00	33	69
143	00	16	48
144	00	27	64
152	00	09	13
151	00	21	06
150	00	42	23

[फा.सं. आर-25011/2/2017-ओआर-I/48332/ई-13386]

पवन कुमार, अवर सचिव

New Delhi, the 26th July, 2017

S.O. 1725.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the State of Telangana a pipeline should be laid for implementing Paradip-Hyderabad Pipeline Project under Paradip-Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. Narayana Rao, Competent Authority (Telangana), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 264/A, 2nd Floor, above Canara Bank, Road No. 10, Jubilee Hills, Hyderabad - 500 033 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE**District : Yadadri Bhongir****State : Telangana**

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
Ramannapet	Uthathoor	249	00	46	72
		247	00	08	16
		250	00	21	52
		251	00	26	72
		259	00	39	94
		260	00	33	01
		261	00	11	52
		262	00	37	99
		280	00	29	18
		281	00	29	03
		282	00	37	94
		Road	00	02	41
		302	00	23	21
		302	00	23	21
Ramannapet	Ramannapeta	385	00	45	76
		313	00	33	29
		314	00	28	64
		315	00	45	76
		316	00	25	09
		Cart Track	00	03	58
		370	00	09	89
		369	00	40	69
		368	00	30	91
		367	00	32	84
		392	00	67	69
		387	00	44	36
		386	00	01	77
		266	00	41	40

		263	00	00	18
		283	00	35	40
		284	00	30	21
		287	00	25	43
		289	00	27	20
		293	00	23	43
		294	00	22	60
		261/9	00	14	55
		261/8	00	06	77
		261/7	00	20	27
		261/5	00	18	16
Ramannapet	Siripuram	265	00	42	99
		276	00	33	78
		281	00	09	74
		282	00	46	04
		283	00	58	03
		272	00	42	41
		160	00	54	41
		150	00	00	67
		151	00	00	13
		159	00	41	41
		158	00	58	04
		Cart Track	00	01	90
		157	00	42	95
		189	00	22	44
		188	00	24	41
		249	00	33	05
		250	00	51	41
		251	00	30	88
		Cart Track	00	01	83
Ramannapet	Yellanki	277	00	47	79
		162	00	26	11
		161	00	36	63
		285	00	33	08
		345	00	36	25
		340	00	18	41
		311	00	24	26
		312	00	25	22
		313	00	28	24
		339	00	01	37
		314	00	28	19
		320	00	51	76
		322	00	61	07
		323	00	24	24
		232	00	45	33
		235	00	32	61

277	00	17	80
278	00	45	58
283	00	41	92
270	00	27	34
284	00	23	67
175	00	26	92
176	00	34	99
212	00	68	84
207	00	17	89
205	00	02	27
206	00	38	32
233	00	33	69
143	00	16	48
144	00	27	64
152	00	09	13
151	00	21	06
150	00	42	23

[F. No. R-25011/2/2017-OR-I/48332/E-13386]

PAWAN KUMAR, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 19 जुलाई, 2017

का.आ. 1726.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम (4) के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:-

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करने की तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा मा	भाग	अनु	वर्ष
1.	एल-9512374617	01.02.2017	मै0 ऐकोर्ड ट्रांसफॉर्मर एण्ड स्विचगियर प्रा0 लि0, प्लॉट नं0 94, सैक्टर - 4, आईएमटी, मानेसर, जिला गुडगाँव -122050, हरियाणा	बाह्य रंग तेल इम्मेर्सड वितरण ट्रांसफार्मर भाग 1 मिनरल तेल निमिज्जित	1180	01	-	2014
2.	एल-9512374819	01.02.2017	मै0 वसंत कुमार एण्ड कं0, बस स्टैंड के सामने, सलवास रोड, कोसली, जिला रिवाड़ी - 132302, हरियाणा	खडंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006

3.	एल- 9512374920	06.02.2017	मै0 बालाजी इन्टरप्राइसिस, नेताजी नगर, सिटी स्टेशन, जिला भिवानी, हरियाणा	खड़जे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
4.	एल- 9512375021	06.02.2017	मै0 हिमालय ज्वैलर्स, न्यू सराफा बाज़ार, होडल, जिला पलवल, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
5.	एल- 9512375223	06.02.2017	मै0 सैनी बिल्डिंग मैटीरियल सप्लायर, महैन्द्रगढ़ नारनौल रोड, गाँव जाडडा, जिला रिवाड़ी – 123401, हरियाणा	खड़जे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
6.	एल- 9512375122	07.02.2017	मै0 लोकेश बिल्डिंग मैटीरियल स्टोर, राजगढ़ रोड, के.बी.सी. ईट भटठा के नजदीक, सिवानी, जिला भिवानी – 127046, हरियाणा	खड़जे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
7.	एल- 9512375518	07.02.2017	मै0 मारुती इरिगेशन कंo, वीपीओ धानी हुनात, तहसील सिवानी, जिला भिवानी – 125046, हरियाणा	सिंचाई उपस्कर - स्प्रिंकलर पाइप भाग 1 पोलीइथिलीन पाइप	14151	01	-	1999
8.	एल- 9512375619	07.02.2017	मै0 मारुती इरिगेशन कंo, वीपीओ धानी हुनात, तहसील सिवानी, जिला भिवानी – 125046, हरियाणा	सिंचाई उपस्कर - स्प्रिंकलर पाइप भाग 2 सहज संयोगी पोलीइथिलीन पाइप तथा फिटिंग्स	14151	02	-	2008
9.	एल- 9512375324	08.02.2017	मै0 सर्वमंगल पेट्रोलियमस लिमिटेड, असावटी रेलवे स्टेशन रोड, (बीपीसीएल बोटलिंग प्लांट पियाला के नज़दीक), गाँव डीग, बल्लभगढ़,	अल्प दाब द्रवणीय गैसो के लिए 5 लिटर से अधिक जल क्षमता वाले बेल्डित अल्प कार्बन इस्पात के सिलिंडर भाग 1: द्रवित पेट्रोलियम गैस (एल पी	3196	01	-	2013

			जिला फरीदाबाद – 121004, हरियाणा	जी) के लिए सिलिंडर				
10.	एल- 9512375417	10.02.2017	मै0 न्यू बाबा मुंगिप्पा कंस्ट्रक्शन कं०, गाँव लक्ष्मणपुरा, वीपीओ लक्ष्मणपुरा, जिला भिवानी – 127040, हरियाणा	खड्डे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
11.	एल- 9512375720	14.02.2017	मै0 साहिल ट्रेडिंग कं०, गाँव व डाकघर गुडियानी, झज्जर रोड, तहसील कोसली, जिला रिवाड़ी – 123301, हरियाणा	खड्डे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
12.	एल- 9512375821	14.02.2017	मै0 गुप्ता ज्वैलर्स, 222/5, जैकबपुरा, गली कृष्ण मन्दिर, जिला गुडगाँव – 122001, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
13.	एल- 9512375922	14.02.2017	मै0 गुप्ता ज्वैलर्स, 222/5, जैकबपुरा, गली कृष्ण मन्दिर, जिला गुडगाँव – 122001, हरियाणा	चौदी एवं चौदी मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	2112	-	-	2014
14.	एल- 9512376023	14.02.2017	मै0 भोला ज्वैलर्स, 3A, न्यू कालौनी, जिला गुडगाँव, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
15.	एल- 9512376520	14.02.2017	मै0 भोला ज्वैलर्स, 3A, न्यू कालौनी, जिला गुडगाँव, हरियाणा	चौदी एवं चौदी मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	2112	-	-	2014
16.	एल- 9512377320	14.02.2017	मै0 अंजली ट्रेडर्स, प्राणपुरा रोड, आशुतोष फिलिंग स्टेशन के नज़दीक, बावल, जिला रिवाड़ी – 123501, हरियाणा	खड्डे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006

17.	एल- 9512376124	16.02.2017	मै0 सत पाल सन्स ज्वैलर्स, 135/2, जिया राम चौक, मेन बाज़ार, सोहना, जिला गुडगाँव – 122103, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
18.	एल- 9512376217	16.02.2017	मै0 सत पाल सन्स ज्वैलर्स, 135/2, जिया राम चौक, मेन बाज़ार, सोहना, जिला गुडगाँव – 122103, हरियाणा	चौदी एवं चौदी मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	2112	-	-	2014
19.	एल- 9512376318	16.02.2017	मै0 सिया राम ज्वैलर्स, 112, 4 मरला, खांडसा रोड, जिला गुडगाँव – 122001, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
20.	एल- 9512376419	16.02.2017	मै0 सिया राम ज्वैलर्स, 112, 4 मरला, खांडसा रोड, जिला गुडगाँव – 122001, हरियाणा	चौदी एवं चौदी मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	2112	-	-	2014
21.	एल- 9512376621	16.02.2017	मै0 सोनिका ज्वैलर्स, शॉप नं0 25, वार्ड नं0 7, अग्रसेन बाज़ार, ओल्ड फरीदाबाद, जिला फरीदाबाद – 121002, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
22.	एल- 9512376722	16.02.2017	मै0 श्री कृष्णा ज्वैलर्स, शॉप नं0 88/8, ओल्ड सब्जी मण्डी के नज़दीक, ओल्ड फरीदाबाद, जिला फरीदाबाद – 121002, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016

23.	एल- 9512376823	16.02.2017	मै0 श्री बालाजी कंक्रीट प्रोडक्ट्स, हांसी तोशाम रोड, जमालपुर, जिला भिवानी – 127035, हरियाणा	खड्डंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
24.	एल- 9512377421	16.02.2017	मै0 संजय कंक्रीट प्रोडक्ट्स, गाँव लहलाना, डाकघर गोलागढ़, जिला भिवानी – 127021, हरियाणा	खड्डंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
25.	एल- 9512377522	20.02.2017	मै0 बंसी ट्रेडिंग कं०, जुडी रोड, गाँव व डाकघर झाल, तहसील कोसली, जिला रिवाड़ी – 123302, हरियाणा	खड्डंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
26.	एल- 9512376924	21.02.2017	मै0 मुसद्दी लाल देवैन्द्र सिंह ज्वैलर्स, 306-307, जैन मन्दिर रोड, सदर बाज़ार, जिला गुडगाँव – 122001, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
27.	एल- 9512377017	21.02.2017	मै0 मुसद्दी लाल देवैन्द्र सिंह ज्वैलर्स, 306-307, जैन मन्दिर रोड, सदर बाज़ार, जिला गुडगाँव – 122001, हरियाणा	चाँदी एवं चाँदी मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	2112	-	-	2014
28.	एल- 9512377623	21.02.2017	मै0 नरेश कुमार कॉन्ट्रैक्टर, महेन्द्रगढ़ बाइ पास के नज़दीक, चरखी दादरी, जिला भिवानी – 127306, हरियाणा	खड्डंजे के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006

29.	एल- 9512377825	21.02.2017	मै0 एवरेस्ट प्योर ट्रेडर्स , 6 माइलस्टोन इशरवाल से झुम्पा रोड, तलवानी, तहसील सिवानी, जिला भिवानी – 127043, हरियाणा	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	-	-	2004
30.	एल- 9512377118	22.02.2017	मै0 कान्हा ज्वैलर्स, 817/8, मेन सदर बाज़ार, जिला गुडगाँव – 122001, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
31.	एल- 9512377219	22.02.2017	मै0 कान्हा ज्वैलर्स, 817/8, मेन सदर बाज़ार, जिला गुडगाँव – 122001, हरियाणा	चौदी एवं चौदी मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	2112	-	-	2014
32.	एल- 9512377724	22.02.2017	मै0 कृष्णा ज्वैलर्स, 58/7, मेन मार्किट, ओल्ड फरीदाबाद, जिला फरीदाबाद – 121002, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	1417	-	-	2016
33.	एल- 9512377926	27.02.2017	मै0 यूनिटेक कंस्ट्रक्शन कम्पनी, 44 फीट रोड, ईसार के नज़दीक, गाँव रोहद, बहादुरगढ़, जिला झज्जर – 124507, हरियाणा	खड्गों के लिए पूर्व ढलित कंक्रीट ब्लॉक	15658	-	-	2006
34	एल- 9512378120	28.02.2017	मै0 कृष्णा ज्वैलर्स, 58/7, मेन मार्किट, ओल्ड फरीदाबाद, जिला फरीदाबाद – 121002, हरियाणा	चौदी एवं चौदी मिश्रधातु आभूषण/शिल्प वस्तुएँ – महीनता एवं मुहरांकन	2112	-	-	2014

[सं. सीएमडी/13:11]

सुनील कुमार, वैज्ञानिक एफ एवं प्रमुख

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, the 19th July, 2017

S.O. 1726.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licences No. CM/L-	Grant Date	Name & Address of the Licensee	Title of the Standard	IS No.	Part	Sec.	Year
1.	L-9512374617	01.02.2017	M/s. Accord Transformer & Switchgear Pvt. Ltd., Plot No.94, Sector-4, IMT, Manesar, Distt. Gurgaon – 122050, Haryana	Outdoor Type Oil Immersed Distribution Transformers Part 1: Mineral Oil Immersed	1180	01	-	2014
2.	L-9512374819	01.02.2017	M/s. Basant Kumar & Co., Opp. Bus Stand, Salwas Road, Kosli, Distt. Rewari – 132302, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
3.	L-9512374920	06.02.2017	M/s. Balaji Enterprises, Netaji Nagar, City Station, Distt. Bhiwani, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
4.	L-9512375021	06.02.2017	M/s. Himalya Jewellers, New Sarafa Bazar, Hodal, Distt. Palwal, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
5.	L-9512375223	06.02.2017	M/s. Saini Building Material Supplier, Mehandergerh Narnual Road, Village Jadra, Distt. Rewari, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
6.	L-9512375122	07.02.2017	M/s. Lokesh Building Material Store, Rajgarh Road, Near K.B.C. Entt Bhtha, Siwani, Distt. Bhiwani – 127046, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
7.	L-9512375518	07.02.2017	M/s. Maruti Irrigation Co., V.P.O.Dhani Hunat, Teh. Siwani, Distt. Bhiwani - 125046, Haryana	Irrigation Equipment – Sprinkler Pipes Part 1 Polyethylene Pipes	14151	01	-	1999
8.	L-9512375619	07.02.2017	M/s. Maruti Irrigation Co. V.P.O. Dhani Hunat, Teh. Siwani, Distt. Bhiwani – 125046, Haryana	Irrigation Equipment – Sprinkler Pipes Part 2 Quick Coupled Polyethylene Pipes & Fittings	14151	02	-	2008

9.	L-9512375324	08.02.2017	M/s. Sarvamangal Petroleums Limited, Asoati Railway Station Road, (Near BPCL Bottling Plant Piyala), Village Deeg, Ballabgarh, Distt. Faridabad – 121004, Haryana	Welded Low Carbon Steel Cylinders Exceeding 5 Litre Water Capacity for Low Pressure Liquefiable Gases - Part 1: Cylinders for Liquefiable Petroleum Gases (LPG)	3196	01	-	2013
10.	L-9512375417	10.02.2017	M/s. New Baba Mungipa Const. Co., Village Laxman Pura, VPO Lakman Pura, Distt. Bhiwani – 127040, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
11.	L-9512375720	14.02.2017	M/s. Sahil Trading Co., Village & P.O.Gudiani, Jhajjar Road, Tehsil Kosli, Gudiani, Distt. Rewari – 123301, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
12.	L-9512375821	14.02.2017	M/s. Gupta jewellers, 222/5, Jacobpura, Gali krishan Mandir, Distt. Gurgaon – 122001, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
13.	L-9512375922	14.02.2017	M/s. Gupta jewellers, 222/5, Jacobpura, Gali krishan Mandir, Distt. Gurgaon – 122001, Haryana	Silver and Silver Alloys Jewellery/Artefacts – Fineness and Marking	2112	-	-	2014
14.	L-9512376023	14.02.2017	M/s. Bhola Jewellers, 3A, New Colony, Distt. Gurgaon, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
15.	L-9512376520	14.02.2017	M/s. Bhola Jewellers, 3A, New Colony, Distt. Gurgaon, Haryana	Silver and Silver Alloys Jewellery/Artefacts – Fineness and Marking	2112	-	-	2014
16.	L-9512377320	14.02.2017	M/s. Anjali Traders, Pranpura Road, Near Ashutosh Filling Station, Bawal, Distt. Rewari – 123501, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
17.	L-9512376124	16.02.2017	M/s. Sat Pal Sons Jewellers, 135/2, Jiya Ram Chowk, Main Bazar, Sohna, Distt. Gurgaon – 122103, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
18.	L-9512376217	16.02.2017	M/s. Sat Pal Sons Jewellers, 135/2, Jiya Ram Chowk, Main Bazar, Sohna, Distt. Gurgaon – 122103, Haryana	Silver and Silver Alloys Jewellery/Artefacts – Fineness and Marking	2112	-	-	2014

19.	L-9512376318	16.02.2017	M/s. Siya Ram Jewellers, 112/4, Marla, Khandsa Road, Distt. Gurgaon – 122001, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
20.	L-9512376419	16.02.2017	M/s. Siya Ram Jewellers, 112/4, Marla, Khandsa Road,, Distt. Gurgaon – 122001, Haryana	Silver and Silver Alloys Jewellery/Artefacts – Fineness and Marking	2112	-	-	2014
21.	L-9512376621	16.02.2017	M/s. Sonika Jewellers, Shop No. 25, Ward No. 7, Aggarsen Bazar, Old Faridabad, Distt. Faridabad – 121002, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
22.	L-9512376722	16.02.2017	M/s. Shri Krishna Jewellers, Shop No. 88/8, Near Old Sabzi Mandi, Old Faridabad, Distt. Faridabad – 121002, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
23.	L-9512376823	16.02.2017	M/s. Shri Balaji Concrete Products, Hansi Tosham Road, Jamalpur, Distt. Bhiwani – 127035, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
24.	L-9512377421	16.02.2017	M/s. Sanjay Concrete Products, Village Lahlana, P.O. Golagarh, Distt. Bhiwani – 127021, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
25.	L-9512377522	20.02.2017	M/s. Bansi Trading Co., Juddi Road, Village Jhal, Tehsil Kosli, Distt. Rewari – 123302, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
26.	L-9512376924	21.02.2017	M/s. Musaddi Lal Devender Singh Jewellers, 306-307, Jain Mandir Road, Sadar Bazar, Distt. Gurgaon – 122001, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
27.	L-9512377017	21.02.2017	M/s. Musaddi Lal Devender Singh Jewellers, 306-307, Jain Mandir Road, Sadar Bazar, Distt. Gurgaon – 122001, Haryana	Silver and Silver Alloys Jewellery/Artefacts – Fineness and Marking	2112	-	-	2014
28.	L-9512377623	21.02.2017	M/s. Naresh Kumar Contractor, Near Mahendergarh By Pass, Charkhi Dadri, Distt. Bhiwani – 127306, Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006

29.	L-9512377825	21.02.2017	M/s. Everest Pure Traders, 6th Mile Stone Isharwal to Jhumpa Road, Talwani, Tehsil Siwani, Distt. Bhiwani – 127043, Haryana	Packaged Drinking Water (Other Than Packaged Natural Mineral Water)	14543	-	-	2004
30.	L-9512377118	22.02.2017	M/s. Kanha Jewellers, 817/8, Main Sadar Bazar, Distt. Gurgaon – 122001, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
31.	L-9512377219	22.02.2017	M/s. Kanha Jewellers, 817/8, Main Sadar Bazar, Distt. Gurgaon – 122001, Haryana	Silver and Silver Alloys Jewellery/Artefacts – Fineness and Marking	2112	-	-	2014
32.	L-9512377724	22.02.2017	M/s. Krishna Jewellers, 58/7, Main Market, Old Fariabad, Distt. Faridabad – 121002, Haryana	Gold and Gold Alloys Jewellery/Artefacts - Fineness and Marking	1417	-	-	2016
33.	L-9512377926	27.02.2017	M/s. Unitech Construction Company, 44 Feet Road, Near Essar, Village Rohad, Bahadurgarh, Distt. Jhajjar - 124507 Haryana	Precast Concrete Blocks for Paving	15658	-	-	2006
34	L-9512378120	28.02.2017	M/s. Krishna Jewellers, 58/7, Main Market, Old Fariabad, Distt. Faridabad – 121002, Haryana	Silver and Silver Alloys Jewellery/Artefacts – Fineness and Marking	2112	-	-	2014

[No. CMD/13:11]

SUNIL KUMAR, Scientist F & Head

नई दिल्ली, 19 जुलाई, 2017

का.आ. 1727.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम (5) के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द/स्थगित कर दिया गया है :-

अनुसूची

क्रम संख्या	लाइसेंस संख्या सीएम/एल	लाइसेंसधारी का नाम व पता	लाइसेंस के अन्तर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
01	एल-2720650	मै0 जे0 के0 लक्ष्मी सीमेंट लिमिटेड, गाँव बाजीतपुर, डाकघर झामरी, तहसील माटनहील, जिला झज्जर – 123305, हरियाणा	साधारण पोर्टलैंड सीमेंट 53 ग्रेड आईएस 12269:2013	03.02.2017

[सं. सीएमडी/13:13]

सुनील कुमार, वैज्ञानिक एफ एवं प्रमुख

New Delhi, the 19th July, 2017

S.O. 1727.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given below have been cancelled/suspended with effect from the date indicated against each:

SCHEDULE

Sl. No.	Licences No. CM/L-	Name & Address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled/suspension	Date of Cancellation
01	L-2720650	M/s. J.K. Lakshmi Cement Ltd. Village Bajitpur, P.O. Jhamri, Tehsil Matanhail, Distt. Jhajjar – 123305, Haryana	53 Grade Ordinary Portland Cement IS 12269:2013	03.02.2017

[No. CMD/13:13]

SUNIL KUMAR, Scientist F & Head

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1728.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, दूरसंचार जिला, बीएसएनएल, गाजियाबाद, यूपी एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 2/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.07.2017 को प्राप्त हुआ था।

[सं. एल-40011/19/2012-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 17th July, 2017

S.O. 1728.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 2/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, Telecom District, BSNL, Ghazibad, UP and their workman, which were received by the Central Government on 03.07.2017.

[No. L-40011/19/2012-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI

ID. No. 2/2016

General Secretary, (Bijendra Kumar).
BSNL AsthaiKaramchariSangh,
Paschimi (UP), 04 Subhash Market

Versus

General Manager, Telecom District.
BSNL, Raj Nagar Exchange,
Ghazibad, UP. 201001.

Ex-parte Award

Sh. Bijendra Kumar, General Secretary, for workman union moved an application u/s 33-A of the Industrial Dispute Act, 1947 Through which he prayed as follows:-

1. That the workman/pplicant is connected with ID. No. 5/2013 referred by the Ministry of Labour vide order no. 40011/19/2012-IR(DU) dated 21.01.2013 for regularization of 17 applicants therein and reinstatement of General Secretary of the Union Bijendra Kumar with full backwages.
2. That the applicant worked with the respondent as an accounts officer, Shahdra East, Ghaziabad, Uttar Pradesh with effect from May, 2002 to December 2003 under the aegis of A.O. Sh. R.S Chouhand and then from Jan . 2004 to Aug. 2005 under AO Sh. B.K. Gupta, from Sep. 2005 to April 2007 under AO Sh. Bhagat Lal, from May, 2007 to Feb. 2009 under AO Sh. Subhash Chandra, from Mar. 2009 to Oct 2010 under AO Sh. S.P. Gupta, from Nov. 2010 to Dec. 2011 under AO Sh. R.P. Mishra and lastly from Dec. 2011 to Feb. 2012 under AO Sh. Satraj Singh.
3. That subsequently an industrial dispute was raised vide representation dated 8.9.2011 regarding regularization of services of contract workers by the respondent.
4. It was also submitted in the statement of claim at paragraph 15 filed in I.D No. 5 of 2013 that during the pendency of conciliation proceedings the management terminated the services of General Secretary of the applicant Union Sh. Bijendra Kumar in violation of the provisions of Section 33 of the Industrial Disputes Act. The said violation was reported to the Assistant Labour Commissioner Dehradun and the Assistant Labour Commissioner Dehradun and the Assistant Labour Commissioner Dehradun had written letter No. D-8 (109) /2011-ALC dated 13.03.2012 to Respondent. A copy of the letter dated 13.03.2012 is annexed herewith and marked as Annexure A-1
5. That the Respondent neither reinstated the said General Secretary nor allowed line to work. The Respondent terminated the services of applicant without following the mandate of Industrial Disputes Act. The action taken by the management to terminate the services of workman /applicant is absolutely illegal, unjustified and unwarranted.
6. That till the disposal of the dispute in ID. No. 5 of 2013 , the termination of applicant Bijendra Kumar is nonest and the applicant is entitled to wages as he was getting before the date of termination of his services with effect from 01.02.2012.
7. It is humbly submitted that prior to dismissal of the services of applicant, the dispute was already made to the Ld. Asstt. Labour Commissioner, in other words at the time termination of services of the applicants , the dispute was already pending before the Asstt. Labour Commissioner (Central) , Dehradun and therefore, the provisions of Section 33-A of the Industrial Disputes Act are indisputably attracted.
8. That the conciliation proceedings between the parties at that time remained unfruitful. However , due to ineffective representation of the applicants by the earlier counsel, the Petitioner herein could not move the instant applicant before this Counsel that the instant applicant is being moved. Albeit it is a settled principle of law, as has been so enunciated by Hon'ble Supreme Court of India in a catena of decisions , that the party must not for the mistake of his counsel, nonetheless it is respectfully submitted that the cause of action qua invocation of Section 33(c) (2) of the Industrial Disputes Act did arise in favour of the applicant.
9. That it has also been propounded by the Hon'ble Supreme Court of India in plethora of judgments that the substantial rights should not be defeated on account of lapse of procedural delay. The applicants have a substantial right under Section 33(c) (2) and the lapse of procedural delay, if any, in moving the instant application cannot outweigh the ineluctable and substantial rights of the applicants qua the relief prayed for in the instant application. It would be a mockery of justice if the applicants are rendered bereft of their rights as envisaged by the legislature under Section 33(c)(2) of the Industrial Disputes Act.
10. That the facts submitted in the foregoing paragraphs and the relief prayed in the ensuring prayer clause do find its support from the ratio propounded by Hon'ble Supreme Court of India in its several judgments, including Punjab Beverages Pvt. Ltd. Vs. Suresh Chand & Anr. Reported as AIR 1978 SC 1995: 1978 SCR (3) 370. Hence , it would be in the interest of justice that the applicants get their money due by their employer/ management/ respondent in the interest of justice.

PRAYER

It is, therefore , most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a. Quash the order of termination in respect of the applicant Bijendra Kumar and award reinstatement of applicant Bijendra Kumar on the same position as he was performing his duties prior to termination of his services and also award backwages to the applicant;
- b. Pass any such other order /s as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

On the basis of which ID. 2/2016 has been registered and notice was issued to management to file written statement.

Several opportunities given to management to file its written statement. Neither management appeared nor filed written statement.

Hence its right to file written statement has been closed and case was order to be proceeded ex-parte against management on 23.08.2016. Fixed 6.10.2016 for ex-parte evidence of workman.

On 6.10.2016 workman sought adjournment. Hence adjournment allowed and case was adjourned to ex-parte evidence of workman.

On 7.11.2016 workman tendered his affidavit as WW1. His cross-examination is marked nil as case proceeded ex-parte against management.

Workman moved an application for issuance summon to witness mentioned in application. Fixed 21.12.2016 for remaining evidence of workman. On 21.12.2016 workman moved separate application for issuance of Dasti summon. Which was allowed. Office was directed to issuance Dasti summon.

Fixed 31.1.2017 for evidence of summoned witnesses .

On 31.1.2017 Ld. A/R for the workman expressed his desire not to examine any witness mentioned in the application of workman and summoned by this Tribunal. Hence 29.3.2017 was fixed ex-parte arguments .

On 29.3.2017 workman sought time to file written arguments. Hence 29.4.2017 was fixed for filing of ex-parte written arguments .

On 19.4.2017 written arguments filed by workman. Thereafter award has been reserved.

Contents of written arguments are as follows:-

1. That the captioned matter was proceeded ex-parte against the management vide order dated 23.08.2016 and till date the management has not filed any application for setting aside the ex-parte order.
2. Be that as it may, the case projected by the members of applicant union had filed their claim was registered as I.D. No. 5/2013 for regularization and reinstatement of members of applicant/union.
3. The workman worked with the management from the year 2002 to 2012 without any breaks. When the members of applicant /union raised the industrial disputes, the matter was referred to conciliation.
4. That on 13.03.2012, the Asst. Labour Commissioner (Central)Dehradun wrote a letter to management and advised the management not to violate the provisions of Section 33 of the I.D. Act. Despite such correspondence, the management terminated the services of Sh. Bijender Kumar, General Secretary of the Union.
5. That the said termination of services during the conciliation proceedings is in utter violation of the provisions of Section 33-A of the Industrial Disputes Act. Such as act on part of management falls within the ambit of "Unfair labour practice".
6. That the entire evidence of the applicant remains unrebutted and unchallenged.

In the light of contents mentioned in written arguments I perused the pleadings and ex-parte evidence of workman. Through which it is crystal clear that evidence of workman is unrebutted and uncontroverted inwnat of cross-examination in this Ex-parte case. So this Tribunal has no option except to allow application and grant prayer of workman made in his application u/s 33-A of ID .

So it is a fit case of quashing of termination order of workman Sh. Bijendra Kumar, which is accordingly quashed due to unfair labour practice of management of BSNL and he is entitled to reinstatement with full back wages. Application u/s 33-A of the ID. Act is here-by allowed.

And order of termination of General Secretary of workman union is quashed. He is reinstated with full back wages alongwith consequential benefits.

Management is directed to reinstate the workman Sh. Bijendra Kumar , General Secretary, for workman union, within period of two months after expiry of period of available remedy against this award.

Which is accordingly passed.

Dated : 14.06.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1729.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रबंध निदेशक, भारत इम्युनोलॉजिकल कॉर्पोरेशन लिमिटेड, बुलंदशहर, यूपी एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 56/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.06.2017 को प्राप्त हुआ था।

[सं. एल-42011/42/2011-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1729.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 56/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Managing Director, Bharat Immunological Corporation Ltd., Bulandshahr, UP and their workman, which were received by the Central Government on 21.06.2017.

[No. L-42011/42/2011-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI

ID. No. 56/2011

Shri Om Prakash
S/o Shri Bhagirath Singh,
Vill. & Po- Chaula, Sikenderabad,
Bulandshahr (UP)

1. The Managing Director,
Bharat Immunological Corporation Ltd.
Vill- Chaula, Bulandshahr (UP)
2. The Managing Director,
Bharat Immunological Corporation Ltd.
Vill- Chaula, Bulandshahr (UP)

...Management

AWARD

The Central Government in the Ministry of Labour, New Delhi- 110001 has referred the following dispute for industrial adjudication to this Tribunal vide its notification No. L-42011/42/2011-IR(DU) Dated 05.08.2011.

“Whether the Action of the management of Bharat Immunological Corporation Limited, in terminating services of workman Shri Om Prakash S/o Shri Bhagirath Singh w.e.f. 22.02.2007, without complying with provision of 25F, 25N, is legal and justified? What relief the workman is entitled to?”

On 30.08.2011 reference was received in this Tribunal. Which was registered as ID.No. 56/2011 and claimant/workman was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 20.10.2011. Wherein he prayed as follows:-

“It is therefore most humbly prayed that this Hon’ble Tribunal may be pleased to pass its award in favour of the workman and against the management, thereby reinstating the services of the workman into the service of the management with continuity of service full back wages and with all consequential benefits which includes regularization of the workman after a gap of one year from the date of his joining, in the facts of the case and in the interest of justice.”

Against claimant’s statement management filed its written statement on 27.01.2012. Wherein it is prayed that this Hon’ble Court may kindly be pleased to dismiss the claim filed by the claimant/workman in the interest of justice.

Workman filed rejoinder against written statement of management. Where-in he re-affirmed the contents of claim statement.

On 19.11.2012 my Ld. Predecessor heard arguments of Ld. A/Rs for parties on the point of framing of issues. They submitted that no issue other than the one mentioned in the reference requires to be framed in this case. Hence case was fixed for evidence of the workman by way of affidavit on 12.02.2013.

But workman on 05.04.2013 filed his affidavit and affidavit of his witness Sh. Kamal Singh and Sh. Karan Singh. Fixed 08.05.2013 for examination of workman witness as well as evidence of management.

On 08.05.2013 testimony of claimant and his witnesses have been recorded. Therefore Ld. A/R for claimant closed remaining evidence of workman and 16.07.2013 was fixed for management evidence.

On 05.08.2013 affidavit of management witness Sh. Dinesh Kumar filed. Copy of which supplied to workman and 17.09.2013 was fixed for cross-examination of management witness.

But cross-examination of MW1 could be conducted on 02.12.2013 and cross-examination concluded.

On 11.06.2015 management filed additional affidavit of management witness no.1. Copy of which supplied to workman.

Fixed 24.07.2015 for tendering of additional affidavit of management and his cross-examination.

On 22.02.2016 management tendered additional affidavit of MW1 with annexed documents but his cross-examination was deferred to 12.04.2016.

On 22.08.2016 management witness no.1 was cross-examined and his cross-examination was concluded. Thereafter Ld. A/R for management closed the management evidence. I fixed 07.11.2016 for arguments.

On 07.11.2016 case adjourned to 05.01.2017 and on 05.01.2017 case adjourned to 30.01.2017.

On 30.01.2017 Ld. A/R for workman filed written argument. Copy supplied to management. Management sought time. Hence fixed 06.03.2017.

On 06.03.2017 management against sought adjournment. Hence I reserved the award with liberty to management to file written argument prior to passing of award.

Management has filed written arguments which are on record.

Through written arguments of workman it was claimed that he was appointed in the establishment of management on 26.09.1998 through employment exchange, Bulandshahar and his entry in the establishment of the management was banned on 22.02.2007 by the management and challenged the stand of management that workman is contractual employee.

While on the other hand management claimed that workman is the workman of a contractor M/s. Shiv Enterprises, Shishodia Bhawan, Chandpur Road, Bulandshahar. The management has placed on record copies of two contracts dated 23.12.2002 Ex-MW1/1 and 23.02.2005 Ext-MW1/5 Document Ext-MW1/

In the light of contentions and counter contentions I perused the pleadings and evidence of parties on record as well as contents of written arguments filed by parties.

Which makes it crystal clear that claimant/workman in his claim statement has not impleaded contractor as necessary party to conceal this fact that workman/claimant was contractual employee.

It is established fact that in case of contractual employee claimant/workman can not claim relief from principal employer but from contractor because contractor took wages of workman from principal employer and pay it to contractual employee. In case contractor is defaulter then workman has to make protest before principal employer.

He can claim due relief from contractor only during the subsistence of contract.

So question of determination no.1 mentioned in the schedule of reference is liable to be decided in favour of management of Bharat Immunological corporation Ltd and against workman Sh. Om Prakash.

Which is accordingly decided.

Question of determination no.2 which is relating to relief to workman is also liable to be decided against workman and in favour of management as question of determination no. 1 has already been decided in favour of management and against workman.

In this background reference is liable to be decided in favour of management and against workman.

Which is accordingly decided and claimant's statement is dismissed.

Award is accordingly passed.

Dated : 19.06.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1730.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर, बीएसएनएल, करनाल एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 119/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.06.2017 को प्राप्त हुआ था।

[सं. एल-40012/69/2005-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1730.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 119/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, BSNL, Karnal and their workman, which were received by the Central Government on 21.06.2017.

[No. L-40012/69/2005-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI

ID. No. 119/2005

Sh. Suleman S/o Sh. Mohmuddin,
Vill. Silikala, Tehsil –Radour,
Yamunanagar, (HARYANA)

Versus

The General Manager, BSNL,
Dist. Karnal
Karnal.

AWARD

Reference order no. L-40012/69/2005-IR(DU) : dated 10.11.2005 from the Government of India, Ministry of Labour, New Delhi, received in this Tribunal.

Which was registered as ID No. 119/2005 and 30.03.2006 was fixed . Notice to claimant /workman was issued to file his claim statement.

Workman/ claimant filed his claim statement. Through which he prayed as follows:

1. Present claim petition may kindly be accepted and the termination of the applicant sh. Suleman Mohamad , Casual Labourer may be declared as illegal:
2. Respondents may be directed to consider the case of the applicant for regularization of his services in view of the policy framed by the department dated 1.10.1989 as also the polinies dated 10.02.1995 and 27.01.2000.
3. Any other relief to which this Hon'ble Tribunal may deem fit in the facts and circumstances of the case, may also be granted to the applicant .

Management of BSNL filed its written statement on 14.12.2006. Through which it is prayed that the contents of prayer clause are not admitted and hence denied. It is humbly prayed that he claim statement may kindly be dismissed with costs.

Against written statement of management workman filed its replication /rejoinder on 9.1.2007.

Through which he reaffirmed the contents of claim statement.

On 9.1.2007 my Ld. Predecessor has not framed any issue and proceeded to decide the case on the basis of questions of determination mentioned in the schedule of reference. Therefore he fixed 13.02.2007 for filing of affidavit of workman in his evidence.

On 13.02.2007 workman filed his affidavit in his evidence.

Who tendered his affidavit on 7.12.2015 as WW1/A without any document in support of his case.

He was cross-examined and his cross-examination concluded same day.

Thereafter workman closed his remaining evidence. I fixed 25.1.2016 for management evidence.

On 11.07.2016 management filed affidavit of management witness Sh. Bhagat Ram (AGM). I fixed 11.08.2016 for tendering of affidavit of MW and his cross-examination.

On 11.08.2016 MW1 tendered his affidavit and his cross-examination is deferred to 20.10.2016.

On 29.11.2016 L.R of Deceased workman moved an application for his substitution in place of deceased workman.

I fixed 28.12.2016 for objection and disposal of application. Which could be disposed off and allowed on 2.2.2017. But no request on behalf of L.R of Deceased workman made for cross-examination of MW1.

Hence I fixed 2.3.2017 for filing of affidavit of S/o deceased workman.

On 2.3.2017 S/o Deceased workman filed his affidavit in his evidence. Copy of which supplied to management. Fixed 28.03.2017 for tendering of affidavit and cross-examination of S/o Deceased workman.

On 17.04.2017 S/o Deceased workman tendered his affidavit as WW2 . He was cross-examined and his cross-examination concluded same day.

I fixed 25.04.2017 for arguments with permission to file written arguments by parties. They filed written arguments on 24.4.2017 then I reserved the award.

In the light of contentions and counter contentions mentioned in written arguments I perused the pleadings and evidence of parties on record.

Which makes it crystal clear that there is solitary evidence of workman without supporting evidence of documents in his favour.

While on the otherhand evidence of MW1 Sh. Bhagat is supported with documents as well as it is uncontroverted as he was not at all cross-examined so it unrebutted and uncontroverted testimony cannot be brushed aside.

MW1 Sh. Bhagat Ram Proved this fact that workman Suleman made representation . Which was rejected by management of BSNL. Copy of which supplied to workman. Which has also been filed by MW1 alongwith his affidavit as MW1/A.

Wherein it is mentioned as follows:-

As per the above instructions the benefit of regularization to be given only to those casual labourers who are working in the Department and to those who have been granted temporary status. In your case you are neither working in the department nor have been granted temporary status. Thus being not eligible you are not entitled to the benefit of these orders.

Further more it is pertinent to highlight the entire scheme of granting of temporary status in view of instruction issued from time to time. Grant of temporary status and regularization scheme was introduced vide DOT Circular No. 269-10/89-STM dated 07.11.1989 which came into force w.e.f 01.10.1989. According to that a temporary status would be conferred on the all the Casual Labourers who are currently employed and who have rendered a continuous service of at least one year, out of which they must have been engaged on work for a period of 240 days (206 days in the case of offices observing 5 days week) such casual labourers will be designated temporary Mazdoor. You left the Department in May, 1987, as such being not working in the department from the date of enforcement of this scheme i.e.

01.10.1989, you are working in the Department from the date of enforcement of this scheme i.e.f 01.10.1989 , you are not eligible to be considered in the scheme.

Vide DOT letter no. 269-4/93 –STN –II dated 17.12.1993 further relaxation was issued for the persons who were engaged as casual labourers after 30.03.1985 and up to 22.06.1988 to be considered for grant of temporary status subject to that they are still continuing for such works where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of this letter. Here-in –too you are not eligible to be benefited for the scheme /relaxation being you left the department in may, 1987.

Moreover your representation is hopelessly time barred. In view of the above facts and due consideration no relief can be granted to you as desired by you in representation.

In these circumstances deceased workman Suleman was not at all eligible to be benefited for the scheme /relaxation as he left the department in May, 1987 .

Even then he filed claim on false and fabricated facts which is not proved through his evidence so question of determination no. 1 mentioned in schedule of reference is liable to be decided in favour of management and against workman.

Which is accordingly decided.

Question of determination No. 2 related to relief to workman /claimant. Which is also liable to be decided in favour of management of BSNL and against workman after aforesaid findings on question of determination no. 1.

Which is accordingly decided.

In this background reference is liable to be decided against workman and in favour of management. Which is accordingly decided. Claim statement is dismissed.

Award is accordingly passed.

Dated : 12.06.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1731.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सुपर एयरकोन, पांडे नगर, नई दिल्ली व अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 68/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.06.2017 को प्राप्त हुआ था।

[सं. एल-42012/105/2014-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1731.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 68/2014) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the M/s.. Super Aircon, Pandey Nagar, New Delhi & Others and their workman, which were received by the Central Government on 21.06.2017.

[No. L-42012/105/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI

ID. No. 68/2014

Sh. Ravi Kumar S/o Sh. Harpal Singh,
At- Khadoli, Near Ambedkar Dharmshala,
Bhola Road,
Meerut (UP). 250005.

Versus

1. M/s. Super Aircon,
At-C-129 , Pandey Nagar,
Behind Radha Krishna Temple,
New Delhi-92.
2. The Chief , NDDTC, AIIMS,
Kamla Nehra Nagar, Near Central Public School,
Ghaziabad (UP).

AWARD

Reference No. L- 42012/105/2014-IR(DU) dated 13.08.2014 sent by Ministry of Labour of Government of India to this Tribunal for adjudication of following questions of determination :

“Whether the action of the management of NDCC, AIIMS , Ghaziabad its contractor M/s. Super Aircon, Delhi in terminating the services of workman Sh. Ravi Kumar S/o Sh. Harpal Singh w.e.f 17.12.2012 and non-payment of dues from may 2012 is legal and justified.? If not, what relief the workman is entitled to?”

On 22.12.2008 reference was received in this Tribunal. Which was register as I.D No. 52/2008 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

On 29.1.2007 workman filed claim statement before this Tribunal. Where-in he prayed as follows:-

“This Hon’ble Tribunal may kindly direct the management no. 1 to reinstate Sh. Ravi Kumar as A/c Operator/ Mechanic and reinstate him with full back wages w.e.f 17.12.2012 and also direct the management to pay the wages to the workman from May, 2012 from this date the management retained his wages which is also illegal and unjustified in the eyes of law. It is also submitted that the management no. 1 may kindly be directed to pay the workman in a time scale as per the principle laid down by the management of CPWED and management no.1 is functioning under the said rule adopted by him. It is also submitted that this Hon’ble Tribunal award as they think fit and proper in the interest of justice and fair play.

But Respondent No. 1 not filed written statement on 16.03.2015 , 7.5.2015 , 3.07.2015 , 28.09.2015 , 1.09.2015. So I closed the right of filing written statement by respondent no. 1 on 1.09.2015.

Likewise Respondent no. 2 has not filed written statement on aforesaid dates but it sought adjournment on 1.09.2015. So I allowed the adjournment application and fixed 30.09.2015 for filing written statement by Respondent no. 2.

But Respondent again sought adjournment on 30.09.2015 , 2.12.2015 , 26.02.2016, 18.03.2016. So I closed the right of filing written statement by Respondent No. 2 on 18.03.2016 and fixed 12.04.2016 for workman evidence.

On 12.04.2016 workman sought adjournment which was allowed and case was adjourned to 7.06.2016 for workman evidence.

On 27.05.2016 respondent no. 2 moved an application for setting aside order dated 18.03.2016.

Which has been rejected due to dormancy of Respondent No. 2 on 29.09.2016 and 27.06.2016 was fixed for workman evidence.

On 15.02.2016 workman filed his affidavit in his evidence. Which was tendered by him as WW1/A and his was marked nil.

Thereafter Ld. A/R for the workman closed the evidence of workman and then I fixed 27.03.2017 for ex-parte arguments.

On 27.03.2017 workman sought adjournment. Hence I fixed 17.04.2017.

On 17.04.2017 Ld. A/R for the workman filed written arguments and then I reserved ex-parte award.

In the light of contentions mentioned in the written arguments I perused the pleadings of claim statement and ex-parte evidence of workman. Which makes it crystal clear that workman was contractual employee upto 17.12.2012 for supplying man power to management of NDCC, AIIMS, Ghaziabad.

So workman was not terminated but he became workless after expiry of period of contract.

In case of contractual employee wages to workman is paid by contractor after receiving it from principal employer. So it cannot be presumed that contractor has not received the wages of workman since May, 2012 to 17.12.2012 from management No. 1.

According to uncontroverted and un rebutted pleadings and evidence of workman it is proved fact that workman Ravi Kumar was not paid his dues from May, 2012 to 17.12.2012 by contractor Respondent No. 2. Who was duty bound to pay such dues to workman.

Therefore non-payment of dues from May, 2012 to 17.12.2012 is not legal and justified in want of evidence of contractor R2.

Hence question of Determination No. 1 is liable to be partly decided in favour of workman and against Respondent No. 2. Which is accordingly decided.

So far question of determination no. 2 relating to relief is concerned. It is liable to be decided upto the extent of dues from May, 2012 to 17.12.2012. Which shall be paid to workman by Respondent No. 2 Which is liable to be partly decided in favour of workman and against respondent 2. Which is accordingly decided. Claim statement is partly allowed.

Respondent No. 2 is directed to pay Rs. 50, 000/- (Fifty thousand only) (Tentative amount of unpaid dues since May, 2012 to 17.12.2012) to workman Ravi Kumar within two month after expiry of period of available remedy against this Award.

Award is accordingly passed.

Dated : 09.06.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1732.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय महानिदेशक, एसीआर, इन्द्रप्रस्थ एस्टेट, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 52/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.06.2017 को प्राप्त हुआ था।

[सं. एल-42012/19/2008-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1732.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 52/2008) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Director General, ACR, Indraprastha Estate, New Delhi and their workman, which were received by the Central Government on 21.06.2017.

[No. L-42012/19/2008-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI

ID. No. 52/2008

Sh. Mahesh Sewa Sabha,
120, Nehru Kutia, Malka Ganj, Delhi-110007

Versus

The Director General,
ACR, Indraprastha Estate,
New Delhi -110002.

AWARD

Reference No. L-42012/19/2008-IR(DU) dated 29.09.2008 sent by Ministry of Labour of Government of India to this Tribunal for adjudication of following questions of determination :

“Whether the action of the management of Director General, ACR, Delhi in terminating the services of ex-canteen employees viz. S/Sh. Padam Singh, Surender Singh, Harish Kumar, Sushil Kumar and Naveen represented by Mahesh Sewa Sabha, is legal and justified? If not to what relief the workmen are entitled to ?”

On 22.12.2008 reference was received in this Tribunal. Which was register as I.D No. 52/2008 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

On 29.1.2007 workman filed claim statement before this Tribunal. Where-in he prayed as follows:-

- a. Award to reinstate S/Sh. Padam Singh, w.e.f 03.08.2007, Surinder Singh, w.e.f. 01.8.2007, Harish Kumar w.e.f 01.03.2007 , Sushil Kumar w.e.f. 03.03.2007 & Naveen w.e.f 01.07.2007 from the date of their termination including consequential benefits of regularization from the date of when new hands are recruited in the regular post.
- b. To pass any other award as may be deemed fit and proper by this Hon’ble Tribunal.

After service of notice management filed written statement on 10.06.2009. Where-in management prayed as follows:-

“The present statement of claim of merit. It is respectfully prayed that this Hon’ble Tribunal may be pleased to dismiss the same with cost.

Against written statement workman filed rejoinder. Wherein he re-affirmed the contents of claim statement.

On 24.11.2009 following issues were framed:-

1. Whether the present reference is not maintainable as per preliminary objection no.1 to 13 of in its written statement of the management.
2. As per reference.
3. Relief.

No other issue is made out.

Workmen in support of their case produce WW1 Sh. Sushil Kumar on 12.01.2011, who tendered his affidavit Exht. WW1/ A without any other documents.

He was partly cross-examined on 12.01.2011.

His part cross-examination is as follows:-

I have got appointment letter issued by the management. The Director General of Audit. I have not filed the same in the court till today. The same is lying at my house and I will file the same on the next date of hearing. (The witness is asked to bring the same as per request of the AR for the management. I do not have the identity card as the same was never issued to me.

WW1 was further cross-examined on 22.11.2011.

His further cross-examination is as follows:-

I have not been able to lay hand on appointment letter issued to me by the management and I am unable to produce any appointment letter. My affidavit has been prepared as per my instructions. I was appointed by some Bisht. Who he was I do not know. I even do not know if he was peon or whether he himself was working. It is incorrect to suggest that I was never appointed by the management or any officer of the management. It is incorrect to suggest that I was never working with the management from 06.04.2000 to 01.03.2007. It is wrong to suggest that I was an employee of some contractor during this period i.e. 06.04.2000 to 01.03.2007 , Mr. Rai Singh was the manager of the canteen. I used to be paid ever month. I am not in possession of any document to prove that I used to be paid by the manager in the canteen in cash and he never paid me and others by way of cheque etc. I do not know if the manager of the canteen was an employee of the management or not.

Q. I put it to you that all the officers the management used to be paid during the period in question by Cheque only.

A. I do not know. I was never paid by cheque.

It is incorrect to suggest that I was never appointed directly by the management.

Q. I put it to you that the management had engaged a contractor for running the canteen through a separate agreement with him and so he was running the canteen and for running the canteen he had employed few persons and you might be one of them. What have you to say?

A. There was no contractor during the period 06.04.2000 to 1.03.2007.

It is incorrect to suggest that I have deposed absolutely falsely and I have absolutely no case against the management. I do not know any Sohan Lal. I do not know if Sohan Lal was appointed as the contractor of the canteen. I do not dispute letter dated 08.03.2007 vide which I was called upon for interview and the said letter is Ex. WW1/M1 . I now say that it was employed by the management after this interview. I am not in possession of the management. It is wrong to suggest that I am making a false claim that I have been appointed in January , 2010 as a result of interview conducted in March , 2007.

WW2 Sh. Harish Kumar , tendered his affidavit Exht. WW2/A without any documents.

His cross-examination is as follows:-

My affidavit has been prepared as per my instructions. I was appointed by some Bisht. Who he was I do not know. I even do not know if he was peon or whether he himself was working. It is incorrect to suggest that I was never appointed by the management or any officer of the management. It is incorrect to suggest that I was never working with the management from 01.02.2000 to 01.03.2007 . It is wrong to suggest that I was an employee of some contractor during this period i.e. 01.02.2000 to 01.03.2007 . Mr. Rai Singh was the manager of the canteen. I used to be paid every month. I am not in possession of any document to prove that I used to be paid by the manager in the manner mentioned by me above. I used to be paid by the manager of the canteen in cash and he never paid me and others by way of cheque etc. I do not know if the manager of the canteen was an employee of the management or not.

Q. I put it to you that all the officers the management used to be paid during the period in question by Cheque only.

A. I do not know. I was never paid by cheque.

It is incorrect to suggest that I was never appointed directly by the management.

Q. I put it to you that the management had engaged a contractor for running the canteen through a separate agreement with him and so he was running the canteen and for running the canteen he had employed few persons and you might be one of them. What have you to say?

A. There was no contractor during the period 01.02.2000 to 1.03.2007.

It is incorrect to suggest that I have deposed absolutely falsely and I have absolutely no case against the management. I do not know any Sohan Lal. I do not know if Sohan Lal was appointed as the contractor of the canteen.

WW3 Sh. Surinder Singh , tendered his affidavit Exht. WW3/A. without any documents. He was cross-examined on same day on 22.11.2011.

His cross-examination is as follow:-

My affidavit has been prepared as per my instructions. I was appointed by some Bisht. Who he was I do not know. I even do not know if he was peon or whether he himself was working. It is incorrect to suggest that I was never appointed by the management or any officer of the management. It is incorrect to suggest that I was never working with the management from 01.7.98 to 1.08.2007 . It is wrong to suggest that I was an employee of some contractor during this period i.e. 01.07.1998 to 01.08.2007 . Mr. Rai Singh was the manager of the canteen. I used to be paid every month. I am not in possession of any document to prove that I used to be paid by the manager in the manner mentioned by me above. I used to be paid by the manager of the canteen in cash and he never paid me and others by way of cheque etc. I do not know if the manager of the canteen was an employee of the management or not.

Q. I put it to you that all the officers the management used to be paid during the period in question by Cheque only.

A. I do not know. I was never paid by cheque.

It is incorrect to suggest that I was never appointed directly by the management.

Q. I put it to you that the management had engaged a contractor for running the canteen through a separate agreement with him and so he was running the canteen and for running the canteen he had employed few persons and you might be one of them. What have you to say?

A. There was no contractor during the period 01.07.1998 to 1.08.2007.

It is incorrect to suggest that I have deposed absolutely falsely and I have absolutely no case against the management. I do not know any Sohan Lal. I do not know if Sohan Lal was appointed as the contractor of the canteen.

Sh. Padam Singh as WW4 tendered his affidavit without any document. He was cross-examined same day on 22.11.2011. His cross-examination is not needed to be mentioned here as case against him is already abated due to not moving of application for substitution of his LR's of him.

Workman Sh. Sushil Kumar and Sh. Harish Kumar moved application for withdrawal of their case on 14.12.2011. But my Ld. Predecessor passed order on 22.2.2012 that formal orders on the prayer of withdrawal made by these two workmen shall be passed at the appropriate stage as there are other workmen who are pursuing their case and fixed 19.7.2012 for remaining evidence of workmen.

Workman Sh. Naveen, moved an application for withdrawal of his claim petition on which my Ld. Predecessor passed order dismissed as withdrawn formal order on the prayer made by the workman shall be passed at the appropriate stage.

Thereafter Sh. B.K. Prasad, Ld. A/R for the workmen closed the evidence of workman.

Management in rebuttal produce MW1 Sh. Manoj Chaudhary and MW2 Sh. Ashok Kumar Jain.

In the light of contentions and counter contentions I perused the pleadings and evidence of the parties on record including order dated 14.02.2017 relating to abatement in respect of case of deceased workman Sh. Padam Singh as per provisions of sub Rule (2) of Rule 3 of Order 22 C.P.C.

So far case of other workman Sh. Harish Kumar, Sushil Kumar and Naveen are concerned they have withdrawn their case. Moreover there is no reliable and credible and required evidence in their favour. Moreover there is un rebutted and uncontroverted evidence of MW2 Sh. Ashok Kumar Jain.

In this background reference of aforesaid workmen is liable to be decided against them and in favour of management and their claim statement is liable to be dismissed.

Which is accordingly decided and their claim /statement is dismissed.

Award is accordingly passed.

Dated : 05.06.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1733.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय आयुक्त, पूर्व दिल्ली नगर निगम, शाहदरा, दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 79/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.06.2017 को प्राप्त हुआ था।

[सं. एल-42011/24/2013-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1733.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 79/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Commissioner, East Delhi Municipal Corporation, Shahadra, Delhi and their workman, which were received by the Central Government on 08.06.2017.

[No. L-42011/24/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI****ID. No. 79/2013**

Sh. Nabab Singh S/o Late Rattan Lal
 As represented by MCD General Mazdoor Union
 C/o Room No.95, Barrack No.1/10,
 Jam Nagar House, New Delhi-11

...Workman

Versus

The Commissioner
 East Delhi Municipal Corporation,
 Udyog Sadan, Plot No.419,
 Near Patparganj, Shahadra, Delhi

...Management

AWARD

The Central Government in the Ministry of Labour, New Delhi- 110001 has referred the following dispute for industrial adjudication to this tribunal vide its notification No. L-42011/24/2013-IR(DU) Dated 10.07.2013.

“Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.2001 and revised from time to time all consequential benefits to workman Shri Nabab Singh S/o. Late Rattan La officiating Choudhary w.e.f. 01.01.2001 is fair & justified? What relief the workman is entitled to?”

On 23.07.2013 reference was received in this Tribunal. Which was registered as ID No. 79/2013 and claimant/workman was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 10.09.2013. Wherein he prayed that the salary of Garden Choudhary as the workman has been performing his duty in the pay scale of Rs. 3050-4590 w.e.f. 01.01.2001 as revised from time to time along with all consequential benefits.

Against claimant's statement management filed its written statement on 03.03.2014. Wherein he prayed that the present claim of the claimant may kindly be dismissed, being devoid of any merit and being misconceived.

Against written statement on 31.03.2014 workman filed rejoinder. Wherein he prayed that the preliminary objection as well as the written statement of the management may kindly be dismissed in favour of the workman and against the management.

On 14.07.2014 I framed following issues:-

1. Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.2001 and revised from time to time all consequential benefits to workman Shri Nabab Singh S/o. Late Rattan La officiating Choudhary w.e.f. 01.01.2001 is fair & justified? What relief the workman is entitled to?
2. To what relief the workman is entitled to?

No other issue was made out.

Fixed 01.08.2014 for workman evidence.

Workman filed his affidavit in his evidence. Which was tendered by workman alongwith certain documents as WW1/A.

He was cross-examined.

Workman in support of his evidence filed affidavit of Sh. B. K. Prasad as WW2/A. Which was tendered by workman witness no. 2 and he was cross-examined on 09.05.2016. His cross-examination was concluded.

Thereafter management filed affidavit of MW1 Sh. Vijay Pal Sharma.

Which was tendered by management witness No.1 along with certain documents.

Ld. A/R for workman expressed his desire to file written arguments. On 27.03.2017 workman filed written arguments. Copy of which supplied to Ld. A/R for managements for reply.

Contents of written arguments of workman are as follows:-

1. That the appropriate Government i.e. Ministry of Labour, Shram Shakti Bhawan, New Delhi – 110001 vide its Order No.L-42011/24/2013-IR(DU) dated 10.07.2013 has referred the following dispute for industrial adjudication before this Central Government Industrial Tribunal No.-II:

SCHEDULE

“Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.2001 and revised from time to time all consequential benefits to workman Shri Nabab Singh S/o. Late Rattan La officiating Choudhary w.e.f. 01.01.2001 is fair & justified? What relief the workman is entitled to?”

2. That Sh. Nabab Singh workman was allotted the work of Chaudhary w.e.f. 01.01.2001 by the competent authority under and was posted under Shahadra North Zone (Horticulture) to work under Dy. Director (Hort.) but he has been dinied the wages of Chaudhary in the pay scale revised from time to time. As per the order of Horticulture Wing under Shahadra North vide their letter Exhibit WW1/1 and his name is appearing at **Srl. No.18** of the said list which is annexed as Annexure-A with the Statement of Claim.

3. That the management evidence MW1 Shri Vijay Pal Sharma, Asstt. Hort., North Shahadra Municipal Corporation in his cross-examination dated 23.01.2017 has neither denied nor accepted the list of workmen who have been performing the duty of Garden Chaudhary WW1/1 and further cross-examination is deferred by the Hon'ble Court on 20.02.2017 and directed the management to confirm whether Inderpal, S/o Tika Ram, Kuwar Singh S/o Bhule Singh, Hari Kishan were included in the list WW1/1 or not and the cross-examination of the management witness deferred to 20.02.2017 in which the management witness Sh. Vijay Pal Sharma admitted that Inderpal, S/o Late Tika Ram is included in the Exhibit WW1/1. He further admitted the list WW1/1 is genuine so its proved that Sh. Nabab Singh workman performed his duty as officiating Chaudhary w.e.f. 01.01.2001.

4. That the workman in his cross-examination adduced his evidence as WW1/1 has admitted that his name is appearing at Srl. No.18 in document Exhibit WW1/1 which proves that he has been performing the duty of Chaudhary w.e.f. 01.01.2001 and claimed the wages of Chaudhary and not the post of Chaudhary.

5. That as per Exhibit WW1/1 the name of Shri Nabab Singh workman is appearing at Srl. No. 18. The said list was prepared by the concerned zone of Horticulture, Shahadra North Zone under East Delhi Municipal Corporation.

6. That the management has also denied the list of horticulture department but in this case the Shahadra North Zone under EDMC but the MW1 Shri Vijay Pal Sharma and admitted the list WW1/1 is genuine on 20.02.2017 in the cross-examination by the authorized representative of the workman. In the similar situated case the Hon'ble Division Bench of High Court of Delhi in the matter of MCD Vs. Sultan Singh & Ors. In W.P.(C) 7947/2010 in para 9 of the judgement is reproduced as under:

“9. Cosequent to the order dated 21.04.2005 the petitioner filed the supplementary affidavit in the writ petition being W.P.(C) No.10158-86/2005 dated 13.08.2008 ccategorically stating that the lists which were issued by the zonal horticulture departments i.e. Central Zone, South Zone and West Zone respectively and were received by Horticulture headquarter. Out of the three lists it was contended that original of one of the list was available and original of the two lists were not traceable, however, photocopy of one of the two lists were not traceable on the record. The petitioner also pleaded that the three lists were issued by concerned zonal head of the department of horticulture without any inspection and order from any competent authority. It was contended that the additional work as Garden Chaudhary at zonal level was assigned without the existence of any vacant post in violation of the recruitment rules.”

In view of the para-9 of the judgement of MCD Vs. Sultan Singh & ors the management cannot deny thelist of WW1/1 as the Division Bench in the said judgment has clearly mentioned that the horticulture department i.e. Central Zone, South Zone & West Zone and in view of this the name of the workman is indicated in the liost of Shahadra North Zone under EDMC at **Srl. No. 18** in WW1/1. The name of Inderpal, Kuwar Singh, Hari Singh are also mentioned in the Exhibit WW1/1 and Shri Vijay Pal Sharma management witness MW1 on 20.02.2017 admitted that the list WW1/1 is genuine.

7. It is submitted that Shri Inderpal, Kuwar Singh and Hari Singh and also Naban Singh workman are mentioned in the list of Acting Chaudhary as per WW1/1 and are covered as per the judgment of Hon'ble Division Bench of High Court of Delhi in W.P. No. 7947/2010 in the matter of MCD Vs. Sultan Singh & Ors. And the name of **Shri Nabab Singh** WW1 is also included in the list WW1/1 at srl. No.18 which is annexed as Annexue-A and the same is Exhibit WW1/1. So it is proved that **Shri Nabab Singh** was also covered in the list of management as Exhibit WW1/1.

Accordingly, he is also entitled the wages of Acting Chaudhary w.e.f. 01.01.2001 with all consequential benefits till date.

8. It is also submitted that as per the judgment of MCD Vs. Sultan Singh and ors. the relevant paras 28 & 29 are reproduced as under:

“28. Considering the entire facts and Circumstances it is apparent that the claim of the respondent have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies then took the plea that the Assistant Director (Hort.) was at competent to ask the respondent to work as Garden Chaudharies and that the respondent cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondent are not claiming appointment to the post of Garden Chaudharies on account of having worked on adhoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.

29. In the entirety of facts and circumstances therefore the learned counsel for the petitioner has failed to make out any such grounds which will impel this court to exercise its jurisdiction under Article 226 of the constitution to set aside the orders of the Tribunal dated 29.01.2010 and 7.10.2010 as no illegality or sustainability or perversity in the orders of the Tribunal has been made out.”

9. The management also filed the SLP against the order of the Division Bench in the matter of MCD Vs. Sultan Singh and ors. before the Hon'ble Supreme Court and the same has been dismissed as withdrawn on 09.04.2012. Copy of the said LPA and copy of SLP (C)No.20069/2011 are also annexed for the perusal of this Hon'ble Tribunal. So the payment of Chaudhary attains finality and management cannot deny the difference of wages of Mali and Chaudhary to the workman from the date **01.01.2001** with all consequential benefits till date.

10. The sponsorship of MCD General Mazdoor Union is Exhibit WW2/3 for sponsoring the cause of workman.

11. Accordingly Shri Nabab Singh is also entitled the wages of Chaudhary w.e.f. 01.01.2001 revised from time to time in the pay scale of Rs. 3050-4590/- along with all consequential benefits.

In reply of written arguments of workman management filed its written arguments on 08.05.2017. Copy of which supplied to Ld. A/R for workman.

Contents of written arguments of management are as follows:-

1. That the above named Industrial Dispute is pending adjudication before this Hon'ble Tribunal and is now fixed for 08.05.2017 for filing of written submission on behalf of the management. The terms of reference are as under:-

“Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.2001 and revised from time to time all consequential benefits to workman Shri Nabab Singh S/o. Late Rattan La officiating Choudhary w.e.f. 01.01.2001 is fair & justified? What relief the workman is entitled to?”

2. That the claimant had filed his Statement of Claim with the averments that he has been allotted the work of Chowdhary w.e.f. 01.01.2001 by the Competent Officer of Horticulture Department and was posted under Shahdara (North) Zone but he has been denied the pay scale of Chaudhary, revised from time to time. The claimant further alleged that he is entitled for the salary of Garden Chaudhary w.e.f. 01.01.2001.

3. That the management has filed its written statement and raised as many as 7 preliminary objections to the effect that the present dispute is not an Industrial Dispute as not espoused by Massive Majority of the same category of workers; that no demand notice has been served upon the management; that the reference has been made mechanically without due application of mind; that the MCD General Mazdoor Union has no locus standi to raise the present dispute as the same is not a recognized Union of the management; that the claimant initially engaged on the post of Mali on daily wages basis and later on regularized as Mali in the pay scale of Rs. 750-940/- and there is a prescribed procedure for promotion to the post of Garden Chaudhary i.e. there must be sanctioned and vacant posts of Garden Chaudhary, the claimant must have the requisite qualification and must have passed the Trade Test conducted by the management. The claimant has never passed any Trade Test; that the claimant has never performed duties of Garden Chaudhary and no such office order was ever issued by any competent authority of the management. The post of Garden Chaudhary is the promotional post of Mali; that the statement of claim is not maintainable on the ground of laches as the claim has been filed after passage of 12 years. In case titled as **State of Punjab Vs. Kali Dass & Anr.** Reported as 1997 LLr 249, the Hon'ble High Court of Punjab & Haryana has discussed the point of delay and limitation in raising the Industrial Dispute and denied the relief to the claimant raising Industrial Dispute after expiry of three years. The Hon'ble

Supreme Court of India in “**Nedungadi Bank Ltd. Vs. K.: Madhauankuty & Others**” reported as **2000(2) SCC 455** has held that though no limitation has been prescribed under Section 10 of the I.D. Act but its is not that this Power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and rational manner. The Hon’ble Supreme Court of India in “**Haryana State Co-op Land Development Bank Vs. Neelam**” reported as **2005(5) SCC 91** has held that “the conduct of the respondent in approaching the labour court after more that 7 years was rightly considered a relevant factor by it in refusing the relief.” On merits, the management has denied each and every allegations of the claimant and prayed for dismissal for his claim.

4. That on the basis of pleadings of the parties, following issues were framed on 14.07.2014:-

- (1) Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.2001 and revised from time to time all consequential benefits to workman Shri Nabab Singh S/o. Late Rattan La officiating Choudhary w.e.f. 01.01.2001 is fair & justified? What relief the workman is entitled to?
- (2) To what relief the workman is entitled to?

5. That the claimant has examined himself as WW-1 and Sh. B.K. Prasad as WW-2. The management has examined Sh. Vijay Pal Sharma- Assistant Director (Horticulture), Shahdara (North) Zone of the management as MW-1. The claimant (WW-1) has exhibited photocopy of alleged list dated 15.06.2005 as Ex. WW-1/1. During cross-examination of the WW-1 documents have been exhibited:-

- WW-1/M-1- Photocopy of Service book (3 pages)
- WW-1/M-2- Order Dated 07.02.1995 regarding regularization of the claimant.
- WW-1/M-3- Reliving order dated 06.06.2011.
- WW-1/M-4- Joining report dated 30.07.2007.
- WW-1/M-5- Leave application dated 26.02.2009.
- WW-1/M-6- Leave application dated 25.03.2010.
- WW-1/M-7- Joining report dated 21.06.2011.
- WW-1/M-8- Transfer order dated 31.05.2011.
- WW-1/M-9- Leave application dated 11.07.2012.
- WW-1/M-10- Leave application dated 27.11.2013.

Sh. B.K. Parsad (WW-2) has exhibited copy of Registration Certificate of Union as Ex. WW-2/1, copy of recognition by MCD as Ex. WW-2/2, copy of Sponsorship as Ex. WW-2/3.

The management had exhibited Office order dated 29.02.2016 as Exb. MW-1/1 and copy of Recruitment Rules as Exb. MW-1/2 & Exb. MW-1/3.

6. That the WW-1, during his cross-examination, has admitted that there was no order assigning him the work of officiating Chaudhary, issued at any point of time. The WW-1 has further admitted that arguculture was not a subject in his 10th & 12th class examination. He has further admitted that he has never appeared in the trade test conducted by the management. WW-1 has stated that he has been a member of the Union since 1996. Though the claimant has failed to prove his memebership of the alleged Union but if for the sake of arguments (though not admitted) it is presumed that the claimant has been member of the alleged union since 1996, it is very strange that the claimant has not raised any objection against payment of salary of Mali to him instead of salary of Chaudhary, if he had ever worked as officiating Chaudhary. The WW-1 has admitted that no demand notice has been served upon the management prior to raising of the present dispute. The WW-1 has also stated that he has made a complaint in writing to the Union regarding no-payment of salary of the post of Chaudhary but neither he is aware about the date, month & year of the alleged complaint nor he has filed any copy of such complaint before this Hon’ble Tribunal. **The WW-1 has specifically stated that no meeting of the Union regarding his present dispute was ever held, meaning thereby that the present dispute has not been espoused by the union.**

7. That the WW-2, in his cross-examination, has stated that he had not filed constitution of the Union on record. The WW-2 has also admitted that the minutes of the meeting regarding present dispute are not filed. It is very strange that WW-2 is the President of alleged Union bu he is not aware about the date of meeting regarding the present dispute. The WW-2 has admitted that list of Executive Members and List of General Members have not been filed before the Court. The WW-2 has failed to file any letter of recognition by the EDMC (Infant no such recognitionhas ever been given by the EDMC at any point of time). The witness has failed to produce any list of the Executive Members, minutes or Agenda of the alleged meeting of the Union of the year 2012.

8. That the MW-1 has corroborated the defence taken by the management in its written statement and nothing contrary has come out in his entire cross-examination.

9. That the claimant has failed to prove any document or office order with regard to his working as Officiating Chaudhary whereas the management has proved on record so many documents of different period since beginning till date that the claimant was working as Mali and never worked as Officiating Chaudhary. It can not be believed that a person who is working as Officiating Chaudhary, will mention his designation as Mali in his different official documents. The claimant can not be allowed to take benefit of the alleged Sultan Singh's matter as he was not a party to the same. It is also a fact that the facts and evidence of Sultan Singh's matter are entirely different from the present matter. The claimant can not be allowed to take benefit of alleged list Exb. WW-1/1 which has not been validly proved by the claimant before this Hon'ble Court.

10. That the Hon'ble High Court of Punjab & Haryana in case titled as State of Punjab Vs. Kali Dass & Anr. Reported as 1997 LLR 249, has discussed the point of delay and limitation in raising the Industrial Dispute and denied the relief to the claimant raising Industrial Dispute after expiry of three years. The claimant, in the present matter, is claiming salary of the post of Chaudhary w.e.f. 01.01.2001 but has raised the present dispute only in the year 2013 i.e., after passage of twelve years.

11. That the Hon'ble Supreme Court of India in **"Nedungadi Bank Ltd. Vs. K.P. Madhauankutty & Others"** reported as **2000(2) SCC 455** has held that "Though Law does not prescribe any time for the appropriate government to exercise its power under Section 10 of the Act, it is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time, reference was made, no Industrial Dispute existed or could be even said to have been apprehended. A dispute, which is stale, could not be the subject matter of reference under section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final it appears to us to be rather incongruous that the reference be made under section 10 of the Act in the circumstances like the present one."

12. That the Hon'ble Supreme Court of India in **"Haryana State Co-op Land Development Bank Vs. Neelam"** reported as **2005(5) SCC 91** has held that "the conduct of the respondent in approaching the labour court after more than 7 years was rightly considered a relevant factor by it in refusing the relief."

13. That the Hon'ble High Court of Delhi in **"Lord Krishna Textile Mills/National Textile Corpn. Ltd. Vs. Rampal Singh"** reported as **2015 LLR 747** has held as follows:-

"An individual dispute not espoused by the Union or a substantial number of workmen is not an industrial dispute.

Issue of espousal goes to the root of the matter while adjudication by the Labour Court/Industrial Tribunal.

Industrial Tribunal/Labour Court would get jurisdiction to decide a dispute only when it is properly espoused.

Merely a party has not objected to the terms of reference would not be sufficient enough a ground not to entertain objections to proper espousal of a dispute."

14. That the judgment cited by the A/R of the claimant is not application in the circumstances of the present case and as such the same can not be relied upon.

In view of the submissions made hereinabove, the claimant is not entitled from any relief from this Hon'ble Court and the claim of the claimant is liable to be dismissed.

On 08.05.2017 Ld. A/R for workman expressed his desire not to file reply for the written arguments of the management. Hence I reserved the Award.

Perusal of evidence makes it crystal clear that evidence of workman is reliable, credible and required evidence in this case. While evidence of management not at all sufficient to rebut the evidence of workman. So this Tribunal has no option except to decide the reference in favour of workman and against management.

Which is accordingly decided. And claim statement is allowed.

Management is directed to grant salary of Garden Chaudhary to workman Sh. Nabab Singh since 01.01.2001 alongwith all consequential benefits.

Compliance has to be done by management within 2 months after expiry of period of available remedy against the instant Award.

Dated : 17.05.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1734.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आयुक्त, साउथ दिल्ली नगर निगम, शाहदरा, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 92/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.06.2017 को प्राप्त हुआ था।

[सं. एल-42011/26/2013-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1734.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 92/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Commissioner, South Delhi Municipal Corporation, Civic Centre, New Delhi and their workman, which were received by the Central Government on 08.06.2017.

[No. L-42011/26/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI-110032

ID. No. 92/2013

Sh. Lekh Raj S/o Late Ganesh Lal
As represented by MCD General Mazdoor Union
C/o Room No. 95, Barrack No.1/10,
Jam Nagar House, New Delhi-11

...Workman

Versus

The Commissioner
South Delhi Municipal Corporation,
9th Floor, Civic Centre, Minto Road
New Delhi – 110002

...Management

AWARD

The Central Government in the Ministry of Labour, New Delhi- 110001 has referred the following dispute for industrial adjudication to this tribunal vide its notification No. L-42011/26/2013-IR(DU) Dated 10.07.2013.

“Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs. 950-1500/- w.e.f. 20.04.1993 and revised from time to time all consequential benefits to workman Shri Lekh Raj S/o. Late Ganesh Lal officiating Choudhary w.e.f. 20.04.1993 is fair & justified? What relief the workman is entitled to?”

On 23.07.2013 reference was received in this Tribunal. Which was registered as ID No. 92/2013 and claimant/workman was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 10.09.2013. Wherein he prayed that the salary of Garden Choudhary as the workman has been performing his duty in the pay scale of Rs. 950-1500 w.e.f. 20.04.1993 as revised from time to time alongwith all consequential benefits.

Against claimant's statement management filed its written statement on 23.12.2013. Wherein he prayed that the present claim of the claimant may kindly be dismissed, being devoid of any merit and being misconceived.

Against written statement on 17.02.2013 workman filed rejoinder. Wherein he prayed that the preliminary objection as well as the written statement of the management may kindly be dismissed in favour of the workman and against the management.

On 04.04.2014 on the basis of pleadings of parties followings issues are hereby framed:-

1. Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs. 950-1500/- w.e.f. 20.04.1993 and revised from time to time all consequential benefits to workman Shri Lekh Raj S/o. Late Ganesh Lal officiating Choudhary w.e.f. 20.04.1993 is fair & justified? What relief the workman is entitled to?

2. To what relief the workman is entitled to and from which date? If so its effect?

No other issue was made out.

Fixed 05.06.2014 for workman evidence.

Workman filed his affidavit in his evidence. Which was tendered by workman alongwith certain documents as WW1/A.

He was cross-examined.

Workman in support of his evidence filed affidavit of Sh. B. K. Prasad as WW2/A. Which was tendered by workman witness no. 2 and he was cross-examined on 09.05.2016. His cross-examination was concluded.

Thereafter management filed affidavit of MW1/A Sh. Ajay Kumar, Assitant Director (Horticulture).

Which was tendered by management witness no.1 aongwith certain documents.

Ld. A/R for workman expressed his desire to filed written arguments. On 20.02.2017 workman filed written arguments. Copy of which supplied to Ld. A/R for managements for reply.

Contents of written arguments of workman are as follows:-

1. That the appropriate Government i.e. Ministry of Labour, Shram Shakti Bhawan, New Delhi – 110001 vide its Order No. L-42011/26/2013-IR(DU) dated 10.07.2013 has referred the following dispute for industrial adjudication before this Central Government Industrial Tribunal No.-II:

SCHEDULE

“Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs. 950-1500/- w.e.f. 20.04.1993 and revised from time to time all consequential benefits to workman Shri Lekh Raj S/o. Sh. Late Ganesh Lal, officiating Choudhary w.e.f. 20.04.1993 is fair & justified? What relief the workman is entitled to?”

2. That **Sh. Lekh Raj** workman was allotted the work of Chaudhary w.e.f. **20.04.1993** by the competent authority under Central Zone of Horticulture now he is working under South Zone, Horticulture, Green Park but the workman has been denied the pay scale of Chaudhary in the pay scale revised from time to time. As per the order of Central Zone, Lajpat Nagar vide their No. SNUC/M Zone/2004/421 dated 12.08.2004 the said order is annexed as Exhibit WW1/1 in which the name of **Shri Lekh Raj** is mentioned at **Srl. No. 35** in the said list and accordingly, as per the said list he was allowed to work as Chaudhary w.e.f. **20.04.1993**.

3. That the workman in his cross-examination adduced his evidence as WW1. He exhibited WW1/1 and his name is appearing at **Srl. No. 35** which proves that he has been performing the duty of Chaudhary and claimed the wages Chaudhary. In cross-examination of MW1 has said that he do not know Surender S/o Sh. Surajmal, Ram Singh S/o Ganga Ram, Shyam Singh S/o Ved Prakash, Om Prakash S/O Peru and Daya S/o Jaipal. He further said that he do not know whether aforesaid persons were the parties in the case of Sultan Singh and they were provided the payment of Chaudhary. It is proved that the name of Surender and others are mentioned in the list exhibit WW1/1.

4. The Similar situated officiating Chaudhary in the said list was granted the wages of Garden Chaudhary from the date of their working as Garden Chaudhary from the date of their working as Garden Chaudhary. The name of some of the workmen are mentioned in the list Exhibit WW1/1. The name of the workmen are indicate in Para 2 hereinabove.

5. That as per Exhibit WW1/1 the name of Shri Lekh Raj workman is appearing at Srl. No. 35. The said list was prepared by the concerned zone of Horticulture, South Zone under South Delhi Municipal Corporation.

6. That the management has also denied the list of horticulture department i.e. Central Zone, South Zone and West Zone but the Division Bench of High Court in the matter of MCD Vs. Sultan Singh & Ors. in W.P.(C) 7947/2010 in para 9 of the judgement is reproduced as under:

“9. Cosequent to the order dated 21.04.2005 the petitioner filed the supplementary affidavit in the writ petition being W.P.(C) No. 10158-86/2005 dated 13.08.2008 ccategorically stating that the lists which were issued by the zonal horticulture departments i.e. Central Zone, South Zone and West Zone respectively and were received by Horticulture headquarter. Out of the three lists it was contended that original of one of the list was available and original of the two lists were not traceable, however, photocopy of one of the two lists were not traceable on the record. The petitioner also pleaded that the three lists were issued

by concerned zonal head of the department of horticulture without any inspection and order from any competent authority. It was contended that the additional work as Garden Chaudhary at zonal level was assigned without the existence of any vacant post in violation of the recruitment rules.”

In view of the para-9 of the judgement of MCD Vs. Sultan Singh & ors the management cannot deny the list of WW1/1 as the Division Bench in the said judgment has clearly mentioned that the horticulture department i.e. Central Zone, South Zone & West Zone and in view of this the name of the workman is indicated in the list of Central Zone at **Srl. No. 35**. The name of other workers i.e. Surender, Ram Singh, Shyam Singh, Om Prakash and Daya so here is no doubt that the workman is included in the list of WW1 at **Srl. No. 35**.

7. It is submitted that above five workers are mentioned in the list of Acting Chaudhary as per WW1/1 and are covered as per the judgment of Hon'ble Division Bench of High Court of Delhi in W.P. No. 7947/2010 in the matter of MCD Vs. Sultan Singh & Ors. And the name of **Shri Lekh Raj** WW1 is also included in the list WW1/1 at **Srl. No. 35**. So it is proved that **Shri Lekh Raj** was also covered in the list of management as Exhibit WW1/1. Accordingly, he is also entitled the wages of Acting Chaudhary w.e.f. **20.04.1993** till date he is also continuously working the work of Garden Chaudhary. The details mentioned in the Statement of Claim are reproduced herein for the sake of brevity.

8. It is also submitted that as per the judgment of MCD Vs. Sultan Singh and ors. the relevant paras 28 & 29 are reproduced as under:

“28. Considering the entire facts and Circumstances it is apparent that the claim of the respondent have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies then took the plea that the Assistant Director (Hort.) was at competent to ask the respondent to work as Garden Chaudharies and that the respondent cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondent are not claiming appointment to the post of Garden Chaudharies on account of having worked on adhoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.

29. In the entirety of facts and circumstances therefore the learned counsel for the petitioner has failed to make out any such grounds which will impel this court to exercise its jurisdiction under Article 226 of the constitution to set aside the orders of the Tribunal dated 29.01.2010 and 7.10.2010 as no illegality or sustainability or perversity in the orders of the Tribunal has been made out.”

9. The management also filed the SLP against the order of the Division Bench in the matter of MCD Vs. Sultan Singh and ors. before the Hon'ble Supreme Court and the same has been dismissed as withdrawn on 09.04.2012. Copy of the said LPA and copy of SLP (C) No. 20069/2011 are also annexed for the perusal of this Hon'ble Tribunal. So the payment of Chaudhary attains finality and management cannot deny the difference of wages of Mali and Chaudhary to the workman from the date **20.04.1993** with all consequential benefits till date.

10. The sponsorship of MCD General Mazdoor Union is Exhibit WW2/3 for sponsoring the cause of workman.

11. Accordingly **Shri Lekh Raj** is also entitled the wages of Chaudhary w.e.f. **01.01.1998** revised from time to time in the pay scale of Rs. 3050-4590/- along with all consequential benefits.

In reply of written arguments of workman management filed its written arguments on 06.03.2017. Copy of which supplied to Ld. A/R for workman.

Contents of written arguments of management are as follows:-

1. That the above named Industrial Dispute is pending adjudication before this Hon'ble Tribunal and is now fixed for 06.03.2017 for filing of written submission on behalf of the management. The terms of reference are as under:-

“Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs. 950-1500/- w.e.f. 20.04.1993 and revised from time to time all consequential benefits to workman Shri Lekh Raj S/o. Late Ganesh Lal officiating Choudhary w.e.f. 20.04.1993 is fair & justified? What relief the workman is entitled to?”

2. That the claimant had filed his Statement of Claim with the averments that he has been allotted the work of Chowdhary w.e.f. 20.04.1993 by the Competent Officer of Horticulture Department and was posted in South Zone but he has been denied the pay scale of Chaudhary, revised from time to time. The claimant further alleged that he is entitled for the salary of Garden Chaudhary w.e.f. 20.04.1993.

3. That the management has filed its written statement and raised as many as 7 preliminary objections to the effect that the present dispute is not an Industrial Dispute as not espoused by Massive Majority of the same category of workers; that no demand notice has been served upon the management; that the reference has been made mechanically without due application of mind; that the MCD General Mazdoor Union has no locus standi to raise the present dispute

as the same is not a recognized Union of the management; that the claimant initially engaged on the post of Mali on daily wages basis and later on regularized as Mali in the pay scale of Rs. 750-940/- and there is a prescribed procedure for promotion to the post of Garden Chaudhary i.e. there must be sanctioned and vacant posts of Garden Chaudhary, the claimant must have the requisite qualification and must have passed the Trade Test conducted by the management. The claimant has never passed any Trade Test; that the claimant has never performed duties of Garden Chaudhary and no such office order was ever issued by any competent authority of the management. The post of Garden Chaudhary is the promotional post of Mali; that the statement of claim is not maintainable on the ground of laches as the claim has been filed after passage of 15 years. In case titled as **State of Punjab Vs. Kali Dass & Anr.** Reported as 1997 LLr 249, the Hon'ble High Court of Punjab & Haryana has discussed the point of delay and limitation in raising the Industrial Dispute and denied the relief to the claimant raising Industrial Dispute after expiry of three years. The Hon'ble Supreme Court of India in "**Nedungadi Bank Ltd. Vs. K.: Madhauankuty & Others**" reported as **2000(2) SCC 455** has held that though no limitation has been prescribed under Section 10 of the I.D. Act but its is not that this Power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and rational manner. The Hon'ble Supreme Court of India in "**Haryana State Co-op Land Development Bank Vs. Neelam**" reported as **2005(5) SCC 91** has held that "the conduct of the respondent in approaching the labour court after more that 7 years was rightly considered a relevant factor by it in refusing the relief." On merits, the management has denied each and every allegations of the claimant and prayed for dismissal for his claim.

4. That on the basis of pleadings of the parties, following issues were framed on 04.04.2014:-

- (1) Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs. 950-1500/- w.e.f. 20.04.1993 and revised from time to time all consequential benefits to workman Shri Lekh Raj S/o. Sh. Late Ganesh Lal officiating Choudhary w.e.f. 20.04.1993 is fair & justified? What relief the workman is entitled to?
- (2) To what relief the workman is entitled to and from which date? If so its effect?

5. That the claimant has examined himself as WW-1 and Sh. B.K. Prasad as WW-2. The management has examined Sh. Ajay Kumar - Assistant Director (Horticulture), South Zone of the management as MW-1. The claimant (WW-1) has exhibited photocopy of alleged list dated 12.08.2004 as Ex. WW-1/1, office order dated 04.06.2013 regarding Sultan Singh & Ors. Ex. WW-1/2, copy of Registration Certificate of Union as Ex. WW-2/1, copy of Recognition by MCD as Ex. WW-2/2 & copy of Sponsorship as Ex. WW-2/3 & copy of list of Office Bearers as Ex. WW-2/4. During cross-examination of the WW-1 following documents have been exhibited:-

- WW-1/M-1- Photocopy of Service book (7 pages)
- WW-1/M-2- Approval dated 14.09.2010 for grant of Pay Band of Rs. 5200-20,200+1800 GP
- WW-1/M-3- LPC dated 11.07.2011
- WW-1/M-4- Statement of Pay Fixation dated 30.09.2010
- WW-1/M-5- Performa for grant of second MACP dated 26.02.2013
- WW-1/M-6- Revision of pay dated 14.05.2012
- WW-1/M-7- Office order dated 26.12.2012 regarding pay fixation.
- WW-1/M-8- Performa of 1st ACP and 2nd MACP.
- WW-1/M-9- Pay Fixation approval dated 20.06.2013.
- WW-1/M-10- Performa of First, Second & Third financial upgradation.
- WW-1/M-11- Copy of application dated 02.11.2011 for adding qualification.
- WW-1/M-12- Leave application dated 27.06.2014
- WW-1/M-13- Leave application dated 06.10.2015
- WW-1/M-14- Leave application dated 12.11.2014
- WW-1/M-15- Leave application dated 02.05.2014
- WW-1/M-16- Joining dated 15.05.2014
- WW-1/M-17- Leave Sanction order for 17.05.2008 to 23.05.2008
- WW-1/M-18- Relieving order dated 07.07.2011 on transfer from Shahdara (South) Zone to South Zone.
- WW-1/M-19- Office order dated 17.04.2012

- WW-1/M-20- Transfer order dated 15.06.2009 from Central Zone to Shahdara (South) Zone.
- WW-1/M-21- Office order dated 19.11.2009 regarding permission to appear in 10th/12th class examination.
- WW-1/M-22- The result of Trade Test alongwith merit list.
- WW-1/M-23- Office order dated 15.04.2005.

The management had exhibited copy of Recruitment Rules for the post of Mali as Exb. MW-1/1 and copy of the Recruitment Rules for the post of Chaudhary as Exb. MW-1/2.

6. That the **WW-1, during his cross-examination, has admitted that there was no order assigning him the work of officiating Chaudhary, issued at any point of time.** The WW-1 has further admitted that arguculture was not a subject in his 10th & 12th class examination. He has further admitted that he has never appeared in the trade test conducted by the management. WW-1 has stated that he has been a member of the Union since 1995-1996. Though the claimant has failed to prove his membership of the alleged Union but if for the sake of arguments (though not admitted) it is presumed that the claimant has been member of the alleged union since 1995-96, it is very strange that the claimant has not raised any objection against payment of salary of Mali to him instead of salary of Chaudhary, if he had ever worked as officiating Chaudhary. The WW-1 has admitted that no demand notice has been served upon the management prior to raising of the present dispute. The WW-1 has also stated that he has not made any complaint in writing to the Union regarding no-payment of salary of the post of Chaudhary. The WW-1 is also not aware whether any meeting of the Union regarding his present dispute was held or not.

7. That the WW-2, in his cross-examination, has stated that he had not filed constitution of the Union on record. The WW-2 has also admitted that the minutes of the meeting regarding present dispute are not filed. It is very strange that WW-2 is the President of alleged Union but he is not aware about the date of meeting regarding the present dispute. The WW-2 has admitted that list of Executive Members and List of General Members have not been filed before the Court. The WW-2 has failed to file any letter of recognition by the SDMC (Infant no such recognition has ever been given by the SDMC at any point of time). The witness has failed to produce any list of the Executive Members, minutes or Agenda of the alleged meeting of the Union of the year 2012.

8. That the MW-1 has corroborated the defence taken by the management in its written statement and nothing contrary has come out in his entire cross-examination.

9. That the claimant has failed to prove any document or office order with regard to his working as Officiating Chaudhary whereas the management has proved on record so many documents of different period since beginning till date that the claimant was working as Mali and never worked as Officiating Chaudhary. It can not be believed that a person who is working as Officiating Chaudhary, will mention his designation as Mali in his different official documents. The claimant can not be allowed to take benefit of the alleged Sultan Singh's matter as he was not a party to the same. It is also a fact that the facts and evidence of Sultan Singh's matter are entirely different from the present matter. The claimant can not be allowed to take benefit of alleged list Exb. WW-1/1 which has not been validly proved by the claimant before this Hon'ble Court nor admitted by the management.

10. That the Hon'ble High Court of Punjab & Haryana in case titled as **State of Punjab Vs. Kali Dass & Anr.** Reported as 1997 LLR 249, has discussed the point of delay and limitation in raising the Industrial Dispute and denied the relief to the claimant raising Industrial Dispute after expiry of three years. The claimant, in the present matter, is claiming salary of the post of Chaudhary w.e.f. 20.04.1993 but has raised the present dispute only in the year 2013 i.e., after passage of fifteen years.

11. That the Hon'ble Supreme Court of India in "**Nedungadi Bank Ltd. Vs. K.P. Madhauankutty & Others**" reported as **2000(2) SCC 455** has held that "Though Law does not prescribe any time for the appropriate government to exercise its power under Section 10 of the Act, it is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time, reference was made, no Industrial Dispute existed or could be even said to have been apprehended. A dispute, which is stale, could not be the subject matter of reference under section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final it appears to us to be rather incongruous that the reference be made under section 10 of the Act in the circumstances like the present one."

12. That the Hon'ble Supreme Court of India in "**Haryana State Co-op Land Development Bank Vs. Neelam**" reported as **2005(5) SCC 91** has held that "the conduct of the respondent in approaching the labour court after more than 7 years was rightly considered a relevant factor by it in refusing the relief."

13. That the Hon'ble High Court of Delhi in "**Lord Krishna Textile Mills/National Textile Corpn. Ltd. Vs. Rampal Singh**" reported as **2015 LLR 747** has held as follows:-

“An individual dispute not espoused by the Union or a substantial number of workmen is not an industrial dispute.

Issue of espousal goes to the root of the matter while adjudication by the Labour Court/Industrial Tribunal.

Industrial Tribunal/Labour Court would get jurisdiction to decide a dispute only when it is properly espoused.

Merely a party has not objected to the terms of reference would not be sufficient enough a ground not to entertain objections to proper espousal of a dispute.”

14. That the judgment cited by the A/R of the claimant is not application in the circumstances of the present case and as such the same can not be relied upon.

In view of the submissions made hereinabove, the claimant is not entitled from any relief from this Hon'ble Court and the claim of the claimant is liable to be dismissed.

On 08.05.2017 Ld. A/R for workman expressed his desire not to file reply for the written arguments of the management. Hence I reserved the Award.

Perusal of evidence makes it crystal clear that evidence of workman is reliable, credible and required evidence in this case. While evidence of management not at all sufficient to rebut the evidence of workman. So this Tribunal has no option except to decide the reference in favour of workman and against management.

Which is accordingly decided. And claim statement is allowed.

Management is directed to grant salary of Garden Chaudhary to workman Sh. Lekh Raj since 20.04.1993 alongwith all consequential benefits.

Compliance has to be done by management within 2 months after expiry of period of available remedy against the instant Award.

Dated : 17.05.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1735.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आयुक्त, साउथ दिल्ली नगर निगम, शाहदरा, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 77/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.06.2017 को प्राप्त हुआ था।

[सं. एल-42011/28/2013-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1735.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 77/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Commissioner, South Delhi Municipal Corporation, Shahadra, New Delhi and their workman, which were received by the Central Government on 08.06.2017.

[No. L-42011/28/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI

ID. No. 77/2013

Sh. Satya Dev S/o Sh. Bhagwan Sahai
As represented by MCD General Mazdoor Union
C/o Room No.95, Barrack No.1/10,
Jam Nagar House, New Delhi-11

...Workman

Versus

The Commissioner
South Delhi Municipal Corporation,
9th Floor, Civic Centre, Minto Road
New Delhi – 110002

...Management

AWARD

The Central Government in the Ministry of Labour, New Delhi- 110001 has referred the following dispute for industrial adjudication to this tribunal vide its notification No. L-42011/28/2013-IR(DU) Dated 10.07.2013.

“Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.1998 and revised from time to time all consequential benefits to workman Shri Satya Dev S/o. Sh. Bhagwan Sahai officiating Choudhary w.e.f. 01.01.1998 is fair & justified? What relief the workman is entitled to?”

On 23.07.2013 reference was received in this Tribunal. Which was registered as ID.No. 77/2013 and claimant/workman was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 10.09.2013. Wherein he prayed that the salary of Garden Choudhary as the workman has been performing his duty in the pay scale of Rs. 3050-4590 w.e.f. 01.01.1998 as revised from time to time alongwith all consequential benefits.

Against claimant's statement management filed its written statement on 23.12.2013. Wherein he prayed that the present claim of the claimant may kindly be dismissed, being devoid of any merit and being misconceived.

Against written statement on 17.02.2013 workman filed rejoinder. Wherein he prayed that the preliminary objection as well as the written statement of the management may kindly be dismissed in favour of the workman and against the management.

On 04.04.2014 on the basis of pleadings of parties followings issues are hereby framed:-

1. Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.1998 and revised from time to time all consequential benefits to workman Shri Satya Dev S/o. Sh. Bhagwan Sahai officiating Choudhary w.e.f. 01.01.1998 is fair & justified? What relief the workman is entitled to?
2. To what relief the workman is entitled to and from which date? If so its effect?

No other issue was made out.

Fixed 05.06.2014 for workman evidence.

Workman filed his affidavit in his evidence. Which was tendered by workman alongwith certain documents as WW1/A.

He was cross-examined.

Workman in support of his evidence filed affidavit of Sh. B. K. Prasad as WW2/A. Which was tendered by workman witness no. 2 and he was cross-examined on 09.05.2016. His cross-examination was concluded.

Thereafter management filed affidavit of MW1 Sh. Ajay Kumar, Assitant Director (Horticulture).

Which was tendered by management witness no.1 alongwith certain documents.

Ld. A/R for workman expressed his desire to filed written arguments. On 20.02.2017 workman filed written arguments. Copy of which supplied to Ld. A/R for managements for reply.

Contents of written arguments of workman are as follows:-

1. That the appropriate Government i.e. Ministry of Labour, Shram Shakti Bhawan, New Delhi – 110001 vide its Order No.L-42011/28/2013-IR(DU) dated 10.07.2013 has referred the following dispute for industrial adjudication before this Central Government Industrial Tribunal No.-II:

SCHEDULE

“Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.1998 and revised from time to time all consequential benefits to workman Shri Satya Dev S/o.

Sh. Bhagwan Sahai, officiating Choudhary w.e.f. 01.01.1998 is fair & justified? What relief the workman is entitled to?"

2. That **Sh. Satya Dev** workman was allotted the work of Chaudhary w.e.f. **01.01.1998** by the competent authority under Central Zone of Horticulture now he is working under South Zone, Horticulture, Green Park but the workman has been denied the pay scale of Chaudhary in the pay scale revised from time to time. As per the order of Central Zone, Lajpat Nagar vide their No.SNUC/M Zone/2004/421 dated 12.08.2004 the said order is annexed as Exhibit WW1/1 in which the name of **Shri Satya Dev** is mentioned at **Srl. No.29** in the said list and accordingly, as per the said list he was allowed to work as Chaudhary w.e.f. **01.01.1998**.
3. That the workman in his cross-examination adduced his evidence as WW1. He exhibited WW1/1 and his name is appearing at **Srl. No.29** which proves that he has been performing the duty of Chaudhary and claimed the wages Chaudhary. In cross.examination of MW1 has said that he do not know Surrender S/o Sh. Surajmal, Ram Singh S/o Ganga Ram, Shyam Singh S/o Ved Prakash, Om Prakash S/O Peru and Daya S/o Jaipal. He further said that he do not know whether aforesaid persons were the parties in the case of Sultan Singh and they were provided the payment of Chaudhary. It is proved that the name of Surrender and others are mentioned in the list exhibit WW1/1.
4. The Similar situated officiating Chaudhary in the said list was granted the wages of Garden Chaudhary from the date of their working as Garden Chaudhary from the date of their working as Garden Chaudhary. The name of some of the workmen are mentioned in the list Exhibit WW1/1. The name of the workmen are indicate in Para 2 hereinabove.
5. That as per Exhibit WW1/1 the name of Shri Ved Ram workman is appearing at **Srl. No. 14**. The said list was prepared by the concerned zone of Horticulture, South Zone under South Delhi Municipal Corporation.
6. That the management has also denied the list of horticulture department i.e. Central Zone, South Zone and West Zone but the Division Bench of High Court in the matter of MCD Vs. Sultan Singh & Ors. in W.P.(C) 7947/2010 in para 9 of the judgement is reproduced as under:

“9. Cosequent to the order dated 21.04.2005 the petitioner filed the supplementary affidavit in the writ petition being W.P.(C) No.10158-86/2005 dated 13.08.2008 ccategorically stating that the lists which were issued by the zonal horticulture departments i.e. Central Zone, South Zone and West Zone respectively and were received by Horticulture headquarter. Out of the three lists it was contended that original of one of the list was available and original of the two lists were not traceable, however, photocopy of one of the two lists were not traceable on the record. The petitioner also pleaded that the three lists were issued by concerned zonal head of the department of horticulture without any inspection and order from any competent authority. It was contended that the additional work as Garden Chaudhary at zonal level was assigned without the existence of any vacant post in violation of the recruitment rules.”

In view of the para-9 of the judgement of MCD Vs. Sultan Singh & ors the management cannot deny the list of WW1/1 as the Division Bench in the said judgment has clearly mentioned that the horticulture department i.e. Central Zone, South Zone & West Zone and in view of this the name of the workman is indicated in the list of Central Zone at **Srl. No. 29**. The name of other workers i.e. Surrender, Ram Singh, Shyam Singh, Om Prakash and Daya so here is no doubt that the workmen is included in the list of WW1 at **Srl. No.29**.

7. It is submitted that above five workers are mentioned in the list of Acting Chaudhary as per WW1/1 and are covered as per the judgment of Hon'ble Division Bench of High Court of Delhi in W.P. No. 7947/2010 in the matter of MCD Vs. Sultan Singh & Ors. And the name of **Shri Satya Dev** WW1 is also included in the list WW1/1 at **srl. No.29**. So it is proved that **Shri Satya Dev** was also covered in the list of management as Exhibit WW1/1. Accordingly, he is also entitled the wages of Acting Chaudhary w.e.f. **01.01.1998** till date he is also continuously working the work of Garden Chaudhary. The details mentioned in the Statement of Claim are reproduced herein for the sake of brevity.
8. It is also submitted that as per the judgment of MCD Vs. Sultan Singh and ors. the relevant paras 28 & 29 are reproduced as under:

“28. Considering the entire facts and Circumstances it is apparent that the claim of the respondent have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies then took the plea that the Assistant Director (Hort.) was at competent to ask the respondent to work as Garden Chaudharies and that the respondent cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondent are not claiming appointment to the post of Garden Chaudharies on account of having worked on adhoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.

29. In the entirety of facts and circumstances therefore the learned counsel for the petitioner has failed to make out any such grounds which will impel this court to exercise its jurisdiction under Article 226 of the constitution to set aside the orders of the Tribunal dated 29.01.2010 and 7.10.2010 as no illegality or sustainability or perversity in the orders of the Tribunal has been made out.”

9. The management also filed the SLP against the order of the Division Bench in the matter of MCD Vs. Sultan Singh and ors. before the Hon'ble Supreme Court and the same has been dismissed as withdrawn on 09.04.2012. Copy of the said LPA and copy of SLP (C)No.20069/2011 are also annexed for the perusal of this Hon'ble Tribunal. So the payment of Chaudhary attains finality and management cannot deny the difference of wages of Mali and Chaudhary to the workman from the date **01.01.1998** with all consequential benefits till date.

10. The sponsorship of MCD General Mazdoor Union is Exhibit WW2/3 for sponsoring the cause of workman.

11. Accordingly **Shri Satya Dev** is also entitled the wages of Chaudhary w.e.f. **01.01.1998** revised from time to time in the pay scale of Rs. 3050-4590/- along with all consequential benefits.

In reply of written arguments of workman management filed its written arguments on 06.03.2017. Copy of which supplied to Ld. A/R for workman.

Contents of written arguments of management are as follows:-

1. That the above named Industrial Dispute is pending adjudication before this Hon'ble Tribunal and is now fixed for 06.03.2017 for filing of written submission on behalf of the management. The terms of reference are as under:-

“Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.1998 and revised from time to time all consequential benefits to workman Shri Satya Dev S/o. Sh. Bhagwan Sahai officiating Choudhary w.e.f. 01.01.1998 is fair & justified? What relief the workman is entitled to?”

2. That the claimant had filed his Statement of Claim with the averments that he has been allotted the work of Chowdhary w.e.f. 01.01.1998 by the Competent Officer of Horticulture Department and was posted in South Zone but he has been denied the pay scale of Chaudhary, revised from time to time. The claimant further alleged that he is entitled for the salary of Garden Chaudhary w.e.f. 01.01.1998.

3. That the management has filed its written statement and raised as many as 7 preliminary objections to the effect that the present dispute is not an Industrial Dispute as not espoused by Massive Majority of the same category of workers; that no demand notice has been served upon the management; that the reference has been made mechanically without due application of mind; that the MCD General Mazdoor Union has no locus standi to raise the present dispute as the same is not a recognized Union of the management; that the claimant initially engaged on the post of Mali on daily wages basis and later on regularized as Mali in the pay scale of Rs. 750-940/- and there is a prescribed procedure for promotion to the post of Garden Chaudhary i.e. there must be sanctioned and vacant posts of Garden Chaudhary, the claimant must have the requisite qualification and must have passed the Trade Test conducted by the management. The claimant has never passed any Trade Test; that the claimant has never performed duties of Garden Chaudhary and no such office order was ever issued by any competent authority of the management. The post of Garden Chaudhary is the promotional post of Mali; that the statement of claim is not maintainable on the ground of laches as the claim has been filed after passage of 15 years. In case titled as **State of Punjab Vs. Kali Dass & Anr.** Reported as 1997 LLr 249, the Hon'ble High Court of Punjab & Haryana has discussed the point of delay and limitation in raising the Industrial Dispute and denied the relief to the claimant raising Industrial Dispute after expiry of three years. The Hon'ble Supreme Court of India in **“Nedungadi Bank Ltd. Vs. K.: Madhaukuty & Others”** reported as **2000(2) SCC 455** has held that though no limitation has been prescribed under Section 10 of the I.D. Act but it is not that this Power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and rational manner. The Hon'ble Supreme Court of India in **“Haryana State Co-op Land Development Bank Vs. Neelam”** reported as **2005(5) SCC 91** has held that “the conduct of the respondent in approaching the labour court after more than 7 years was rightly considered a relevant factor by it in refusing the relief.” On merits, the management has denied each and every allegations of the claimant and prayed for dismissal for his claim.

4. That on the basis of pleadings of the parties, following issues were framed on 04.04.2014:-

- (1) Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.1998 and revised from time to time all consequential benefits to workman Shri Satya Dev S/o. Sh. Bhagwan Sahai officiating Choudhary w.e.f. 01.01.1998 is fair & justified? What relief the workman is entitled to?
- (2) To what relief the workman is entitled to and from which date? If so its effect?

5. That the claimant has examined himself as WW-1 and Sh. B.K. Prasad as WW-2. The management has examined Sh. Ajay Kumar - Assistant Director (Horticulture), South Zone of the management as MW-1. The claimant (WW-1) has exhibited photocopy of alleged list dated 12.08.2004 as Ex. WW-1/1, office order dated 04.06.2013 regarding Sultan Singh & Ors. Ex. WW-1/2, copy of Registration Certificate of Union as Ex. WW-2/1, copy of Recognition by MCD as Ex. WW-2/2 & copy of Sponsorship as Ex. WW-2/3. During cross-examination of the WW-1 following documents have been exhibited:-

- WW-1/M-1- Photocopy of Transfer order of the claimant.
- WW-1/M-2- Photocopy of Service book of the claimant.
- WW-1/M-3- GPF Nomination Form.
- WW-1/M-4- Pay Fixation order in view of 6th CPC.
- WW-1/M-5- Regularisation Offer Letter.
- WW-1/M-6- Joining dated 13.09.1994.
- WW-1/M-7- Transfer order dated 12.02.1998 from South Zone to Central Zone as Mali.
- WW-1/M-8- Joining dated 13.02.1998.
- WW-1/M-9- Relieving Order dated 12.02.1998.
- WW-1/M-10- Transfer order dated 15.06.2009 from Central Zone to Shah (South) Zone as Mali.
- WW-1/M-11- Transfer order dated 20.07.2010 from Shah(South) Zone to South Zone as Mali.
- WW-1/M-12- Relieving order dated 16.08.2010.
- WW-1/M-13- The result of Trade Test alongwith merit list.

The management had exhibited copy of Recruitment Rules for the post of Mali as Exb. MW-1/1 and copy of the Recruitment Rules for the post of Chaudhary as Exb. MW-1/2.

6. That **the WW-1, during his cross-examination, has admitted that there was no order assigning him the work of officiating Chaudhary, issued at any point of time.** The WW-1 has further admitted that arguculture was not a subject in his 10th & 12th class examination. He has further admitted that he has never appeared in the trade test conducted by the management. WW-1 has stated that he has been a member of the Union since 1988. Though the claimant has failed to prove his memebership of the alleged Union but if for the sake of arguments (though not admitted) it is presumed that the claimant has been member of the alleged union since 1988, it is very strange that the claimant has not raised any objection against payment of salary of Mali to him instead of salary of Chaudhary, if he had ever worked as officiating Chaudhary. The WW-1 has admitted that no demand notice has been served upon the management prior to raising of the present dispute. The WW-1 has also stated that he has not made any complaint in writing to the Union regarding no-payment of salary of the post of Chaudhary. The WW-1 is also not aware whether any meeting of the Union regarding his present dispute was held or not.

7. That the WW-2, in his cross-examination, has stated that he had not filed constitution of the Union on record. The WW-2 has also admitted that the minutes of the meeting regarding present dispute are not filed. It is very strange that WW-2 is the President of alleged Union but he is not aware about the date of meeting regarding the present dispute. The WW-2 has admitted that list of Executive Members and List of General Members have not been filed before the Court. The WW-2 has failed to file any letter of recognition by the SDMC (Infant no such recognition has ever been given by the SDMC at any point of time). The witness has failed to produce any list of the Executive Members, minutes or Agenda of the alleged meeting of the Union of the year 2012.

8. That the MW-1 has corroborated the defence taken by the management in its written statement and nothing contrary has come out in his entire cross-examination.

9. That the claimant has failed to prove any document or office order with regard to his working as Officiating Chaudhary whereas the management has proved on record so many documents of different period since beginning till date that the claimant was working as Mali and never worked as Officiating Chaudhary. It can not be believed that a person who is working as Officiating Chaudhary, will mention his designation as Mali in his different official documents. The claimant can not be allowed to take benefit of the alleged Sultan Singh's matter as he was not a party to the same. It is also a fact that the facts and evidence of Sultan Singh's matter are entirely different from the present matter. The claimant can not be allowed to take benefit of alleged list Exb. WW-1/1 which has not been validly proved by the claimant before this Hon'ble Court.

10. That the Hon'ble High Court of Punjab & Haryana in case titled as **State of Punjab Vs. Kali Dass & Anr.** Reported as 1997 LLR 249, has discussed the point of delay and limitation in raising the Industrial Dispute and denied the relief to the claimant raising Industrial Dispute after expiry of three years. The claimant, in the present matter, is claiming salary of the post of Chaudhary w.e.f. 01.01.1998 but has raised the present dispute only in the year 2013 i.e., after passage of fifteen years.

11. That the Hon'ble Supreme Court of India in "**Nedungadi Bank Ltd. Vs. K.P. Madhauankutty & Others**" reported as **2000(2) SCC 455** has held that "Though Law does not prescribe any time for the appropriate Government to exercise its power under Section 10 of the Act, its is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time, reference was made, no Industrial Dispute existed or could be even said to have been apprehended. A dispute, which is stale, could not be the subject matter of reference under section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final it appears to us to be rather incongruous that the reference be made under section 10 of the Act in the circumstances like the present one."

12. That the Hon'ble Supreme Court of India in "**Haryana State Co-op Land Development Bank Vs. Neelam**" reported as **2005(5) SCC 91** has held that "the conduct of the respondent in approaching the labour court after more than 7 years was rightly considered a relevant factor by it in refusing the relief."

13. That the Hon'ble High Court of Delhi in "**Lord Krishna Textile Mills/National Textile Corpn. Ltd. Vs. Rampal Singh**" reported as **2015 LLR 747** has held as follows:-

"An individual dispute not espoused by the Union or a substantial number of workmen is not an industrial dispute.

Issue of espousal goes to the root of the matter while adjudication by the Labour Court/Industrial Tribunal.

Industrial Tribunal/Labour Court would get jurisdiction to decide a dispute only when it is properly espoused.

Merely a party has not objected to the terms of reference would not be sufficient enough a ground not to entertain objections to proper espousal of a dispute."

14. That the judgment cited by the A/R of the claimant is not application in the circumstances of the present case and as such the same can not be relied upon.

In view of the submissions made hereinabove, the claimant is not entitled from any relief from this Hon'ble Court and the claim of the claimant is liable to be dismissed.

On 08.05.2017 Ld. A/R for workman expressed his desire not to file reply for the written arguments of the management. Hence I reserved the Award.

Perusal of evidence makes it crystal clear that evidence of workman is reliable, credible and required evidence in this case. While evidence of management not at all sufficient to rebut the evidence of workman. So this Tribunal has no option except to decide the reference in favour of workman and against management.

Which is accordingly decided. And claim statement is allowed.

Management is directed to grant salary of Garden Chaudhary to workman Sh. Satya Dev since 01.01.1998 alongwith all consequential benefits.

Compliance has to be done by management within 2 months after expiry of period of available remedy against the instant Award.

Dated : 17.05.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1736.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय आयुक्त, साउथ दिल्ली नगर निगम, शाहदरा, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 84/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.06.2017 को प्राप्त हुआ था।

[सं. एल-42011/25/2013-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1736.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 84/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Commissioner, South Delhi Municipal Corporation, Shahadra, New Delhi and their workman, which were received by the Central Government on 08.06.2017.

[No. L-42011/25/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI-110032**

ID. No. 84/2013

Sh. Ved Ram S/o Sh. Shyam Lal
As represented by MCD General Mazdoor Union
C/o Room No.95, Barrack No.1/10,
Jam Nagar House, New Delhi-11

...Workman

Versus

The Commissioner
South Delhi Municipal Corporation,
9th Floor, Civic Centre, Minto Road
New Delhi – 110002

...Management

AWARD

The Central Government in the Ministry of Labour, New Delhi- 110001 has referred the following dispute for industrial adjudication to this tribunal vide its notification No. L-42011/25/2013-IR(DU) Dated 10.07.2013.

“Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.1998 and revised from time to time all consequential benefits to workman Shri Ved Ram S/o. Sh. Shyam Lal, officiating Choudhary w.e.f. 01.01.1998 is fair & justified? What relief the workman is entitled to?”

On 23.07.2013 reference was received in this Tribunal. Which was registered as ID.No. 84/2013 and claimant/workman was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 10.09.2013. Wherein he prayed that the salary of Garden Choudhary as the workman has been performing his duty in the pay scale of Rs. 3050-4590 w.e.f. 01.01.1998 as revised from time to time alongwith all consequential benefits.

Against claim/s.tatement management filed its written statement on 23.12.2013. Wherein he prayed that the present claim of the claimant may kindly be dismissed, being devoid of any merit and being misconceived.

Against written statement on 17.02.2013 workman filed rejoinder. Wherein he prayed that the preliminary objection as well as the written statement of the management may kindly be dismissed in favour of the workman and against the management.

On 04.04.2014 on the basis of pleadings of parties followings issues are hereby framed:-

1. Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.1998 and revised from time to time all consequential benefits to workman Shri Ved Ram S/o. Sh. Shyam Lal, officiating Choudhary w.e.f. 01.01.1998 is fair & justified? What relief the workman is entitled to?
2. To what relief the workman is entitled to and from which date? If so its effect?

No other issue was made out.

Fixed 05.06.2014 for workman evidence.

Workman filed his affidavit in his evidence. Which was tendered by workman alongwith certain documents as WW1/A.

He was cross-examined.

Workman in support of his evidence filed affidavit of Sh. B. K. Prasad as WW2/A. Which was tendered by workman witness no. 2 and he was cross-examined on 09.05.2016. His cross-examination was concluded.

Thereafter management filed affidavit of MW1 Sh. Ajay Kumar.

Which was tendered by management witness no.1 along with certain documents.

Ld. A/R for workman expressed his desire to file written arguments. On 20.02.2017 workman filed written arguments. Copy of which supplied to Ld. A/R for management's reply.

Contents of written arguments of workman are as follows:-

1. That the appropriate Government i.e. Ministry of Labour, Shram Shakti Bhawan, New Delhi – 110001 vide its Order No.L-42011/26/2013-IR(DU) dated 10.07.2013 has referred the following dispute for industrial adjudication before this Central Government Industrial Tribunal No.-II:

SCHEDULE

“Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.1998 and revised from time to time all consequential benefits to workman Shri Ved Ram S/o. Sh. Shyam Lal, officiating Choudhary w.e.f. 01.01.1998 is fair & justified? What relief the workman is entitled to?”

2. That **Sh. Ved Ram** workman was allotted the work of Chaudhary w.e.f. **01.01.1998** by the competent authority under Central Zone of Horticulture now he is working under South Zone, Horticulture, Green Park but the workman has been denied the pay scale of Chaudhary in the pay scale revised from time to time. As per the order of Central Zone, Lajpat Nagar vide their No.SNUC/M Zone/2004/421 dated 12.08.2004 the said order is annexed as Exhibit WW1/1 in which the name of **Shri Ved Ram** is mentioned at **Srl. No.14** in the said list and accordingly, as per the said list he was allowed to work as Chaudhary w.e.f. **01.01.1998**.
3. That the workman in his cross-examination adduced his evidence as WW1. He exhibited WW1/1 and his name is appearing at **Srl. No.14** which proves that he has been performing the duty of Chaudhary and claimed the wages Chaudhary. In cross-examination of MW1 has said that he does not know Surender S/o Sh. Surajmal, Ram Singh S/o Ganga Ram, Shyam Singh S/o Ved Prakash, Om Prakash S/O Peru and Daya S/o Jaipal. He further said that he does not know whether aforesaid persons were the parties in the case of Sultan Singh and they were provided the payment of Chaudhary. It is proved that the name of Surender and others are mentioned in the list exhibit WW1/1.
4. The Similar situated officiating Chaudhary in the said list was granted the wages of Garden Chaudhary from the date of their working as Garden Chaudhary from the date of their working as Garden Chaudhary. The name of some of the workmen are mentioned in the list Exhibit WW1/1. The name of the workmen are indicated in Para 2 hereinabove.
5. That as per Exhibit WW1/1 the name of Shri Satya Dev workman is appearing at **Srl. No. 29**. The said list was prepared by the concerned zone of Horticulture, South Zone under South Delhi Municipal Corporation.
6. That the management has also denied the list of horticulture department i.e. Central Zone, South Zone and West Zone but the Division Bench of High Court in the matter of MCD Vs. Sultan Singh & Ors. in W.P.(C) 7947/2010 in para 9 of the judgement is reproduced as under:

“9. Cosequent to the order dated 21.04.2005 the petitioner filed the supplementary affidavit in the writ petition being W.P.(C) No.10158-86/2005 dated 13.08.2008 categorically stating that the lists which were issued by the zonal Horticulture Departments i.e. Central Zone, South Zone and West Zone respectively and were received by Horticulture headquarter. Out of the three lists it was contended that original of one of the list was available and original of the two lists were not traceable, however, photocopy of one of the two lists were not traceable on the record. The petitioner also pleaded that the three lists were issued by concerned zonal head of the Department of Horticulture without any inspection and order from any competent authority. It was contended that the additional work as Garden Chaudhary at zonal level was assigned without the existence of any vacant post in violation of the recruitment rules.”

In view of the para-9 of the judgement of MCD Vs. Sultan Singh & ors the management cannot deny the list of WW1/1 as the Division Bench in the said judgment has clearly mentioned that the Horticulture Department i.e. Central Zone, South Zone & West Zone and in view of this the name of the workman is indicated in the list of Central Zone at **Srl. No. 14**. The name of other workers i.e. Surender, Ram Singh, Shyam Singh, Om Prakash and Daya so here is no doubt that the workmen is included in the list of WW1 at **Srl. No.14**.

7. It is submitted that above five workers are mentioned in the list of Acting Chaudhary as per WW1/1 and are covered as per the judgment of Hon'ble Division Bench of High Court of Delhi in W.P. No. 7947/2010 in the matter of

MCD Vs. Sultan Singh & Ors. And the name of **Shri Ved Ram** WW1 is also included in the list WW1/1 at **srl. No.14**. So it is proved that **Shri Ved Ram** was also covered in the list of management as Exhibit WW1/1. Accordingly, he is also entitled the wages of Acting Chaudhary w.e.f. 20.04.1993 till date he is also continuously working the work of Garden Chaudhary. The details mentioned in the Statement of Claim are reproduced herein for the sake of brevity.

8. It is also submitted that as per the judgment of MCD Vs. Sultan Singh and ors. the relevant paras 28 & 29 are reproduced as under:

“28. Considering the entire facts and Circumstances it is apparent that the claim of the respondent have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies then took the plea that the Assistant Director (Hort.) was at competent to ask the respondent to work as Garden Chaudharies and that the respondent cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondent are not claiming appointment to the post of Garden Chaudharies on account of having worked on adhoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.

29. In the entirety of facts and circumstances therefore the learned counsel for the petitioner has failed to make out any such grounds which will impel this court to exercise its jurisdiction under Article 226 of the constitution to set aside the orders of the Tribunal dated 29.01.2010 and 7.10.2010 as no illegality or sustainability or perversity in the orders of the Tribunal has been made out.”

9. The management also filed the SLP against the order of the Division Bench in the matter of MCD Vs. Sultan Singh and ors. before the Hon'ble Supreme Court and the same has been dismissed as withdrawn on 09.04.2012. Copy of the said LPA and copy of SLP (C)No.20069/2011 are also annexed for the perusal of this Hon'ble Tribunal. So the payment of Chaudhary attains finality and management cannot deny the difference of wages of Mali and Chaudhary to the workman from the date **01.01.1998** with all consequential benefits till date.

10. The sponsorship of MCD General Mazdoor Union is Exhibit WW2/3 for sponsoring the cause of workman.

11. Accordingly **Shri Ved Ram** is also entitled the wages of Chaudhary w.e.f. **01.01.1998** revised from time to time in the pay scale of Rs. 3050-4590/- along with all consequential benefits.

In reply of written arguments of workman management filed its written arguments on 06.03.2017. Copy of which supplied to Ld. A/R for workman.

Contents of written arguments of management are as follows:-

1. That the above named Industrial Dispute is pending adjudication before this Hon'ble Tribunal and is now fixed for 06.03.2017 for filing of written submission on behalf of the management. The terms of reference are as under:-

“Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.1998 and revised from time to time all consequential benefits to workman Shri Ved Ram S/o. Sh. Shyam Lal officiating Choudhary w.e.f. 01.01.1998 is fair & justified? What relief the workman is entitled to?”

2. That the claimant had filed his Statement of Claim with the averments that he has been allotted the work of Chaudhary w.e.f. 01.01.1998 by the Competent Officer of Horticulture Department and was posted in South Zone but he has been denied the pay scale of Chaudhary, revised from time to time. The claimant further alleged that he is entitled for the salary of Garden Chaudhary w.e.f. 01.01.1998.

3. That the management has filed its written statement and raised as many as 7 preliminary objections to the effect that the present dispute is not an Industrial Dispute as not espoused by Massive Majority of the same category of workers; that no demand notice has been served upon the management; that the reference has been made mechanically without due application of mind; that the MCD General Mazdoor Union has no locus standi to raise the present dispute as the same is not a recognized Union of the management; that the claimant initially engaged on the post of Mali on daily wages basis and later on regularized as Mali in the pay scale of Rs. 750-940/- and there is a prescribed procedure for promotion to the post of Garden Chaudhary i.e. there must be sanctioned and vacant posts of Garden Chaudhary, the claimant must have the requisite qualification and must have passed the Trade Test conducted by the management. The claimant has never passed any Trade Test; that the claimant has never performed duties of Garden Chaudhary and no such office order was ever issued by any competent authority of the management. The post of Garden Chaudhary is the promotional post of Mali; that the statement of claim is not maintainable on the ground of laches as the claim has been filed after passage of 15 years. In case titled as **State of Punjab Vs. Kali Dass & Anr.** Reported as 1997 LLr 249, the Hon'ble High Court of Punjab & Haryana has discussed the point of delay and limitation in raising the Industrial Dispute and denied the relief to the claimant raising Industrial Dispute after expiry of three years. The Hon'ble

Supreme Court of India in “**Nedungadi Bank Ltd. Vs. K.: Madhauankuty & Others**” reported as **2000(2) SCC 455** has held that though no limitation has been prescribed under Section 10 of the I.D. Act but its is not that this Power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and rational manner. The Hon’ble Supreme Court of India in “**Haryana State Co-op Land Development Bank Vs. Neelam**” reported as **2005(5) SCC 91** has held that “the conduct of the respondent in approaching the labour court after more that 7 years was rightly considered a relevant factor by it in refusing the relief.” On merits, the management has denied each and every allegations of the claimant and prayed for dismissal for his claim.

4. That on the basis of pleadings of the parties, following issues were framed on 04.04.2014:-

- (1) Whether the Action of the management of MCD Delhi is not granting the pay scale of Rs.3050-4590/- w.e.f. 01.01.1998 and revised from time to time all consequential benefits to workman Shri Ved Ram S/o. Sh. Shyam Lal officiating Choudhary w.e.f. 01.01.1998 is fair & justified? What relief the workman is entitled to?
- (2) To what relief the workman is entitled to and from which date? If so its effect?

5. That the claimant has examined himself as WW-1 and Sh. B.K. Prasad as WW-2. The management has examined Sh. Ajay Kumar- Assistant Director (Horticulture), South Zone of the management as MW-1. The claimant (WW-1) has exhibited photocopy of alleged list dated 12.08.2004 as Ex. WW-1/1, office order dated 04.06.2013 regarding Sultan Singh & Ors. Ex. WW-1/2, copy of Registration Certificate of Union as Ex. WW-2/1, copy of Recognition by MCD as Ex. WW-2/2 & copy of Sponsorship as Ex. WW-2/3. During cross-examination of the WW-1 following documents have been exhibited:-

- WW-1/M-1- Photocopy of Service book of the claimant.
- WW-1/M-2- Photocopy of Regularization Offer Letter of the claimant.
- WW-1/M-3- GPF Nomination Form.
- WW-1/M-4- Photocopies of Leave Application dated 23.03.1992, Joining Report dated 27.04.1992, Joining Report dated 30.06.1993, Application for permission for High School Examination & Joining Report dated 27.03.2015.
- WW-1/M-5- Photocopies of Transfer Order dated 10.12.1997 from South Zone to Central Zone as mali, Relieving Order dated 05.01.1998, Transfer order dated 15.06.2009 from Central Zone to South Zone as Mali, Pay Fixation dated 10.01.2012 & Performa of Second MACP dated 01.03.2013.
- WW-1/M-6- Option form dated 05.02.1998.
- WW-1/M-7- Option Form dated 01.01.2006.
- WW-1/M-8- Recruitment Rules for the post of Chaudhary.
- WW-1/M-9- Recruitment Rules for the post of Mali.

6. That the WW-1, during his cross-examination, has admitted that there was no order assigning him the work of officiating Chaudhary, issued at any point of time. The WW-1 has further admitted that arguculture was not a subject in his 10th & 12th class examination. He has further admitted that he has never appeared in the trade test conducted by the management. WW-1 has stated that he has been a member of the Union since 1985. Though the claimant has failed to prove his membership of the alleged Union but if for the sake of arguments (though not admitted) it is presumed that the claimant has been member of the alleged union since 1985, it is very strange that the claimant has not raised any objection against payment of salary of Mali to him instead of salary of Chaudhary, if he had ever worked as officiating Chaudhary. The WW-1 has admitted that no demand notice has been served upon the management prior to raising of the present dispute. The WW-1 has stated that he has made complaint in writing to the Union regarding no-payment of salary of the post of Chaudhary but did not place the same on Court’s record. **The WW-1 has stated during his cross examination that meeting of the Union regarding his present dispute was held in the year 2009, whereas he has also stated that he made complaint to the Union for the first time in the year 2010, how can it be possible?.** The testimony of the claimant is totally unreliable.

7. That the WW-2, in his cross-examination, has stated that he had not filed constitution of the Union on record. The WW-2 has also admitted that the minutes of the meeting regarding present dispute are not filed. It is very strange that WW-2 is the President of alleged Union but he is not aware about the date of meeting regarding the present dispute. The WW-2 has admitted that list of Executive Members and List of General Members have not been filed before the Court. The WW-2 has failed to file any letter of recognition by the SDMC (Infant no such recognition has ever been given by the SDMC at any point of time). The witness has failed to produce any list of the Executive Members, minutes or Agenda of the alleged meeting of the Union of the year 2012.

8. That the MW-1 has corroborated the defence taken by the management in its written statement and nothing contrary has come out in his entire cross-examination.

9. That the claimant has failed to prove any document or office order with regard to his working as Officiating Chaudhary whereas the management has proved on record so many documents of different period since beginning till date that the claimant was working as Mali and never worked as Officiating Chaudhary. It can not be believed that a person who is working as Officiating Chaudhary, will mention his designation as Mali in his different official documents. The claimant can not be allowed to take benefit of the alleged Sultan Singh's matter as he was not a party to the same. It is also a fact that the facts and evidence of Sultan Singh's matter are entirely different from the present matter. The claimant can not be allowed to take benefit of alleged list Exb. WW-1/1 which has neither been validly proved by the claimant before this Hon'ble Court nor admitted by the management.

10. That the Hon'ble High Court of Punjab & Haryana in case titled as **State of Punjab Vs. Kali Dass & Anr.** Reported as 1997 LLR 249, has discussed the point of delay and limitation in raising the Industrial Dispute and denied the relief to the claimant raising Industrial Dispute after expiry of three years. The claimant, in the present matter, is claiming salary of the post of Chaudhary w.e.f. 01.01.1998 but has raised the present dispute only in the year 2013 i.e., after passage of fifteen years.

11. That the Hon'ble Supreme Court of India in "**Nedungadi Bank Ltd. Vs. K.P. Madhauankutty & Others**" reported as **2000(2) SCC 455** has held that "Though Law does not prescribe any time for the appropriate government to exercise its power under Section 10 of the Act, it is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time, reference was made, no Industrial Dispute existed or could be even said to have been apprehended. A dispute, which is stale, could not be the subject matter of reference under section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final it appears to us to be rather incongruous that the reference be made under section 10 of the Act in the circumstances like the present one."

12. That the Hon'ble Supreme Court of India in "**Haryana State Co-op Land Development Bank Vs. Neelam**" reported as **2005(5) SCC 91** has held that "the conduct of the respondent in approaching the labour court after more than 7 years was rightly considered a relevant factor by it in refusing the relief."

13. That the Hon'ble High Court of Delhi in "**Lord Krishna Textile Mills/National Textile Corpn. Ltd. Vs. Rampal Singh**" reported as **2015 LLR 747** has held as follows:-

"An individual dispute not espoused by the Union or a substantial number of workmen is not an industrial dispute.

Issue of espousal goes to the root of the matter while adjudication by the Labour Court/Industrial Tribunal.

Industrial Tribunal/Labour Court would get jurisdiction to decide a dispute only when it is properly espoused.

Merely a party has not objected to the terms of reference would not be sufficient enough a ground not to entertain objections to proper espousal of a dispute."

14. That the judgment cited by the A/R of the claimant is not application in the circumstances of the present case and as such the same can not be relied upon.

In view of the submissions made hereinabove, the claimant is not entitled from any relief from this Hon'ble Court and the claim of the claimant is liable to be dismissed.

On 08.05.2017 Ld. A/R for workman expressed his desire not to file reply for the written arguments of the management. Hence I reserved the Award.

Perusal of evidence makes it crystal clear that evidence of workman is reliable, credible and required evidence in this case. While evidence of management not at all sufficient to rebut the evidence of workman. So this Tribunal has no option except to decide the reference in favour of workman and against management.

Which is accordingly decided. And claim statement is allowed.

Management is directed to grant salary of Garden Chaudhary to workman Sh. Ved Ram since 01.01.1998 alongwith all consequential benefits.

Compliance has to be done by management within 2 months after expiry of period of available remedy against the instant Award.

Dated : 17.05.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1737.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय मुख्य प्रशासनिक अधिकारी, भारत सरकार मिंट, नोएडा, यूपी एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 77/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.06.2017 को प्राप्त हुआ था।

[सं. एल-16012/01/2014-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1737.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 77/2014) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Chief Administrative Officer India Mint, Noida, UP and their workman, which were received by the Central Government on 08.06.2017.

[No. L-16012/01/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI

ID. No. 77/2014

Sh. Madan Pal Tyagi,
At-A , 32, Sec-36,
Noida (UP) -201301.

Versus

The Chief Administrative Officer,
India Govt Mint, Div of SPMCIL,
At -D-2, Sector-1, P.O. Box No. 78,
NOIDA (UP)-201301.

AWARD

Reference No. L-16012/01/2014-IR(DU) dated 15.09.2014 sent by Ministry of Labour of Government of India to this Tribunal for adjudication of following question:-

“Whether the action of the management of India Government Mint, Noida in terminating the services of workman Sh. Madan Pal Tyagi w.e.f. 14.10.2011 is legal and justified? If not, what relief the workman is entitled to ?

Which was received in this Tribunal on 25.09.2014. Then it was register as I.D. No. 77 of 2014 and notice to management of India Government Mint , U.P. was issued for filing of its written statement on 20.11.2014.

However claim statement has been filed by workman .

Through which workman /claimant prayed as follows:-

“It is requested to kindly pass suitable order in my favour based on the facts of the case.”

Against claim statement management filed written statement. Through which management prayed as follows:-

“Hon’ble Court is requested to reject the claim of Petitioner and pass order in the interest of justice.”

Workman on 18.2.2015 filed rejoinder. Where-in he re-affirmed the contents of claim statement.

On 1.04.2015 following issues were framed:-

1. Whether enquiry conducted by management against workman is just, legal and proper? If so its effect?

2. Whether the action of the management of India Govt. Mint Noida in terminating the services of workman Sh. Madan Pal Tyagi, w.e.f 14.10.2011 is legal and justified? If so its effect?
3. To what relief the workman is entitled to and from which date?

No other issue is made out.

Issue no. 1 relating to enquiry. Which was ordered to be decided as preliminary issue no. 1 and fixed 18.5.2015 for management evidence.

Management in support of its case filed affidavit of MW1 on 31.03.2016, who tendered his affidavit. He was cross-examined at length. Thereafter workman afforded opportunity to adduce his evidence but he has not availed such opportunity and adduce no evidence in rebuttal. On 3.11.2016 workman has filed written arguments. Copy of which supplied to Ld. A/R for the management. I fixed 15.12.2016 for written arguments by management.

On 15.12.2016 management filed written arguments copy of which supplied to Ld. A/R for the workman. I fixed 4.1.2017 for reply by workman against written arguments of management.

On 4.1.2017 Ld. A/R for the workman filed reply of written arguments of management. Copy of which supplied to Ld. A/R for the management. I fixed 31.01.2017 for order relating to disposal of enquiry issue as preliminary issue no.1.

On 31.01.2017 I passed detailed order through which I decided issue no. 1 as preliminary issue against workman and in favour of management and fixed 15.3.2017 for arguments on the point of proportionality of punishment of misconduct of workman.

On 15.03.2017 Ld. A/R for the workman expressed his desire to file written arguments but he supplied advance copy of written arguments to Ld. A/R for the management. Then I fixed 29.3.2017 for filing of written arguments by workman. On 29.3.2017 workman filed written argument and management filed reply to the written arguments of workman. Copy of which supplied to Ld. A/R for the workman and Award was reserved.

In the light of contentions and counter contentions on the point of proportionality of punishment of misconduct of workman I perused the pleadings of workman I perused the pleadings of workman and management and their evidence on record.

Which shows that workman in support of his case adduced no evidence. So in want of evidence of workman pleadings of workman in his claim statement has not avail to him while pleadings of management in its written statement is supported with the evidence of management. Moreover I decided preliminary issue of enquiry on 31.01.2007 through detailed order.

Through which Preliminary Issue No. 1 is decided against workman and in favour of management and I fixed 15.3.2017 for arguments on proportionality of punishment.

Perusal of evidence of management makes it crystal clear that charge of habitual absenteeism for about 3 years by workman Sh. Madan Pal Tyagi, Ex-technician is proved.

It is relevant to mention here that their Lordship of Hon'ble Supreme Court in case of Tripura Gramin Bank and Others Vs. Tarit Baran Roy and Another (2001) 10 Supreme Court cases 70, held delinquent found guilty of defalcation and gross dereliction of duties and negligence and on that basis punishment of dismissal imposed by disciplinary authority-interference with quantum of punishment is not justified.

In case of General Manager appellate authority, Bank of India 7 Ors Vs. Mohd. Nizamuddin (2006) 7 Supreme Court Cases 410. Page no. 410, their Lordship of Hon'ble Supreme Court held gravity of misconduct is to be measured in terms of the nature of misconduct—long unauthorized absence (about three years detrimental warrant dismissal from service).

In case of L & T Komatsu Ltd. Versus N. Udaya Kumar (2008) 1 Supreme Court Cases 224, their lordship of Hon'ble Supreme Court held-Habitual Absenteeism held, amounts to gross violation of discipline.

No ruling in reply to aforesaid rulings cited on behalf of management has been filed on behalf of workman.

In this background provision of section 11A of Industrial Dispute Act, 1947, is of no avail to workman for mitigation of punishment.

So, this Tribunal is of considered view that issue no. 2 framed by this Tribunal is liable to be decided against workman Sh. Madan Pal Tyagi and in favour of management.

Which is accordingly decided.

It is also relevant to mention here that issue no. 3 framed by me in the instant case which is relating to the relief to the workman/claimant is also liable to be decided against workman and in favour of management.

Inwant of evidence of workman and required reliable, credible and cogent evidence of management. Which is accordingly decided.

Reference is liable to be decided against workman and in favour of management.

Award is accordingly decided.

Dated : 05.06.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1738.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, दूरसंचार जिला, बीएसएनएल, राज नगर एक्सचेंज, गाजियाबाद एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 6/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.07.2017 को प्राप्त हुआ था।

[सं. एल-40011/19/2012-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1738.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 6/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, Telecom District, BSNL, Raj Nagar Exchange, Ghaziabad and their workman, which were received by the Central Government on 03.07.2017.

[No. L-40011/19/2012-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI

ID. No. 6/2013

The General Secretary,
BSNL Asthai Karamchari Sangh Paschimi, UP,
04, Subhash Market Ramte Ram Road,
Ghaziabad (UP)

Versus

General Manager, Telecom District.
BSNL, Raj Nagar Exchange,
Ghaziabad

EX-PARTE AWARD

The Central Government in the Ministry of Labour vide Letter No.L-40011/19/2012-IR(DU) dated 21.01.2013 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of BSNL, Ghaziabad of not regularizing the services of 13 workmen is unjustified? If so, what relief the concerned workmen are entitled to?

On 5.2.2013 reference was received in this Tribunal. Which was register as I.D No. 6/2013 and claimants were called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

On 13.06.2013 claim statement has been filed by workmen. Through which workmen prayed as follows:-

- a. regularize the 12 employees of the union in the above noted industrial dispute and be paid equal like permanent employees for the work they have been performing; and

- b. pass such other order and /or direction as is deemed just and proper in the present facts and circumstances of the case.

Against claim statement management filed written statement on 27.08.2013. Where-in it prayed as follows:-

“It is respectfully prayed that the Hon’ble Tribunal be pleased to dismiss the claim of the workmen and give its award accordingly.

On 5.12.2013 workmen filed rejoinder. Wherein they reaffirmed the contents of their claim statement.

On 24.03.2014 on the basis of pleadings of parties, following issues were framed:-

1. Whether the action of the management of BSNL , Ghaziabad of not regularizing the services of 13 workmen (list enclosed) is unjustified. If so its effect?
2. Whether relationship of employer and employee exists between respondent and workmen? If so its effect?
3. To what relief the workman is entitled to?

Only 9 Workmen namely 1. Dharmender Kumar, 2. Nakul Kumar, 3. Vijay Kumar, 4. Vinod Kumar, 5. Kailash Kumar, 6. Manoj Kumar, 7. Phool Chand, 8. Shiv Naresh, 9. Manoj in their ex-parte evidence produced WW1. Thereafter Ld. A/R for the 9 workmen filed written arguments. Where-in they mentioned as follows:-

1. At the very outset, it is respectfully submitted that despite several opportunities to the management , it chose not to cross-examine the applicant and the right to cross examine was closed. It follows a natural corollary that the entire evidence of the applicant /workmen goes un rebutted.
2. That it is also worthwhile to mention that the following cases were filed by the applicant /union against the management /BSNL. Which are pending before this Hon’ble Tribunal:
 - a. ID.No. 158/2012 titled as General Secy. Vs. BSNL.
 - b. ID.No. 1/2016 titled as General Secy. Vs. BSNL.

The aforesaid cases are being contested diligently by the management but the management for no reasons “ abandoned” the captioned matter and it shall not be out of the planet to discern and infer that the management has impliedly admitted the claim of the applicant /union.

3. It is humbly submitted that the Department of Telecommunication had famed a scheme known as Casual Labour (Grant of Temporary Status) Scheme of 1989 which came into force on 01.10.1989. The said scheme was applicable to all the casual labourers who were engaged in Department of Telecommunication. It is specifically submitted that clause 5 of the said Scheme envisages that if a person continues to work for a period of 240 days in a given year, he would be entitled to get temporary status and all other benefits contemplated under the said scheme.
4. That later on Department of Telecommunication formed a government company i.e. BSNL (Management herein) and transferred its assets, liabilities and services to the BSNL. After the said take-over the members of the applicant union became the employees of BSNL.
5. That the members of applicant union worked for about 12-13 years in the BSNL. However, in utter violation of statutes meant for welfare of labour and employees, the members of applicant /union were neither made temporary nor given the status of permanent employees nor the principle of equal pay for equal work was followed. The same is antithesis to constitutional framework too.
6. That the members of applicant union have prayed for regularization as well as adherence to doctrine of ‘equal pay for equal work.’
7. That the members of applicant union have contributed more than a decade of their lives to the management and yet they have been deprived of justice. At this stage, the members of applicant union have been “expelled” during the pendency of the present matter which is also against the provisions of Section 33-A of the Industrial Disputes Act and which reflect gross ‘unfair labour practice. Hence , it would be apt and appropriate in the larger interest of justice that the management is directed to reinstate and regularize the services of the members of applicant union.
8. That the members of the applicant union clearly falls within the definition of ‘workman’ as envisioned in the Industrial Disputes Act. This is more so in light of principles enshrined in paragraph no. 5 of the judgment rendered by Hon’ble Supreme Court of India in State of Karnataka vs. Uma Devi.
9. That while the Respondent/Management in its Reply averred that the members of Applicant Union but the same are wild allegations. As a matter of fact, had it been so, it was incumbent upon the Respondent to disclose the name and other details of the purported Contractor.

10. It is humbly submitted that during the pendency of Conciliation Proceedings, the Management terminated the services of the General Secretary of Workmen Applicants' Union sh. Bijender Kumar in violation of the Section 33 of the Industrial Disputes Act. The Labour Commissioner also in this regard had written to the Respondents, but the respondents had not taken any action nor had taken him back.

11. That the applicant has put forth voluminous record, which remains unrebutted in evidence, to prove that the members of Applicant Union were directly employed by the Management and were under full control & supervision of the Management. The Management failed to give temporary status and subsequent regularization – rather the Management has terminated the services of applicant Union without assigning any reasons therefore.

In the light of contents mentioned in written arguments of 9 workmen only out of 13 workman.

While remaining 4 workmen have not adduced any evidence to support their claim. Therefore claim of only 9 workmen is liable to be allowed. Hence question of determination no. 1 mentioned in schedule of reference is liable to be decided in favour of 9 workman and liable to be decided against 4 workmen who have not filed any evidence to support of their case. Which is accordingly decided.

In this background reference is liable to be decided in favour of 9 workmen namely 1. Dharmender Kumar, 2. Nakul Kumar, 3. Vijay Kumar, 4. Vinod Kumar, 5. Kailash Kumar, 6. Manoj Kumar, 7. Phool Chand, 8. Shiv Naresh, 9. Manoj and liable to decide against remaining 4 workmen namely 1. Sandeep Tyagi, 2. Roop Chand, 3. Kamal, 4. Anju Chauhan and management of BSNL.

Hence aforesaid 09 workmen are entitled for regularization considering their post services rendered to management of BSNL.

Claim statement is partly allowed and management is directed to comply this award within 2 months after expiry of period of available remedy against this Ex-parte Award.

Ex-parte award is accordingly passed.

Dated : 14.06.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1739.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, दूरसंचार जिला, बीएसएनएल, राज नगर एक्सचेंज, गाजियाबाद एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 5/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.07.2017 को प्राप्त हुआ था।

[सं. एल-40011/20/2012-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1739.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 5/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, Telecom District, BSNL, Raj Nagar Exchange, Ghaziabad and their workman, which were received by the Central Government on 03.07.2017.

[No. L-40011/20/2012-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI

ID. No. 5/2013

The General Secretary,
BSNL Asthai Karamchari Sangh Paschimi, UP,
04, Subhash Market Ramte Ram Road,
Ghaziabad (UP)

Versus

General Manager, Telecom District.
BSNL, Raj Nagar Exchange,
Ghaziabad

Ex-parte Award

The Central Government in the Ministry of Labour vide Letter No.L-40011/20/2012-IR(DU) dated 21.01.2013 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of BSNL, Ghaziabad of not regularizing the services of 22 workmen is unjustified? If so, what relief the concerned workmen are entitled to?

On 5.2.2013 reference was received in this Tribunal. Which was register as I.D No. 5/2013 and claimants were called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

On 13.06.2013 claim statement has been filed by workmen. Through which workmen prayed as follows:-

- a. Regularize the 17 employees of the union in the above noted industrial dispute and be paid equal like permanent employees for the work they have been performing ; and
- b. Reinstate general secretary of the Union Bijendra Kumar with full back wages.
- c. Pass such other order and /or direction as is deemed just and proper in the present facts and circumstances of the case.

Against claim statement management filed written statement on 27.08.2013. Where-in it mentioned as follows:-

“It is respectfully prayed that the Hon’ble Tribunal be pleased to dismiss the claim of the workman and give its award accordingly.

On 5.12.2013 workmen filed rejoinder. Wherein he reaffirmed the contents of claim statement.

On 24.03.2014 following issues were framed:-

1. Whether the action of the management of BSNL , Ghaziabad of not regularizing the services of 22 workmen (list enclosed) is unjustified. If so its effect?
2. Whether relationship of employer and employee exists between respondent and workman? If so its effect?
3. To what relief the workman is entitled to?

Thereafter workmen adduce their evidence as WW1.

And thereafter filed written arguments. Contents of written arguments are as follows:-

1. At the very outset, it is respectfully submitted that despite several opportunities to the management , it chose not to cross-examine the applicant and the right to cross examine was closed. It follows a natural corollary that the entire evidence of the applicant /workmen goes un rebutted.

2. That it is also worthwhile to mention that the following cases were filed by the applicant /union against the management /BSNL. Which are pending before this Hon’ble Tribunal:

- a. ID.No. 158/2012 titled as General Secy. Vs. BSNL.
- b. ID.No. 1/2016 titled as General Secy. Vs. BSNL.

The aforesaid cases are being contested diligently by the management but the management for no reasons “abandoned” the captioned matter and it shall not be out of the planet to discern and infer that the management has impliedly admitted the claim of the applicant /union.

3. It is humbly submitted that the Department of Telecommunication had famed a scheme known as Casual Labour (Grant of Temporary Status) Scheme of 1989 which came into force on 01.10.1989. The said scheme was applicable to all the casual labourers who were engaged in Department of Telecommunication. It is specifically submitted that clause 5 of the said Scheme envisages that if a person continues to work for a period of 240 days in a given year, he would be entitled to get temporary status and all other benefits contemplated under the said scheme.

4. That later on Department of Telecommunication formed a government company i.e. BSNL (Management herein) and transferred its assets, liabilities and services to the BSNL. After the said take-over the members of the applicant union became the employees of BSNL.

5. That the members of applicant union worked for about 12-13 years in the BSNL. However, in utter violation of statutes meant for welfare of labour and employees, the members of applicant /union were neither made temporary nor given the status of permanent employees nor the principle of equal pay for equal work was followed. The same is antithesis to constitutional framework too.
6. That the members of applicant union have prayed for regularization as well as adherence to doctrine of 'equal pay for equal work.'
7. That the members of applicant union have contributed more than a decade of their lives to the management and yet they have been deprived of justice. At this stage, the members of applicant union have been "expelled" during the pendency of the present matter which is also against the provisions of Section 33-A of the Industrial Disputes Act and which reflect gross 'unfair labour practice. Hence , it would be apt and appropriate in the larger interest of justice that the management is directed to reinstate and regularize the services of the members of applicant union.
8. That the members of the applicant union clearly falls within the definition of 'workman' as envisioned in the Industrial Disputes Act. This is more so in light of principles enshrined in paragraph no. 5 of the judgment rendered by Hon'ble Supreme Court of India in State of Karnataka vs. Uma Devi.
9. That while the Respondent/Management in its Reply averred that the members of Applicant Union but the same are wild allegations. As a matter of fact, had it been so, it was incumbent upon the Respondent to disclose the name and other details of the purported Contractor.
10. It is humbly submitted that during the pendency of Conciliation Proceedings, the Management terminated the services of the General Secretary of Workmen Applicants' Union sh. Bijender Kumar in violation of the Section 33 of the Industrial Disputes Act. The Labour Commissioner also in this regard had written to the Respondents, but the respondents had not taken any action nor had taken him back.
11. That the applicant has put forth voluminous record, which remains un rebutted in evidence, to prove that the members of Applicant Union were directly employed by the Management and were under full control & supervision of the Management. The Management failed to give temporary status and subsequent regularization – rather the Management has terminated the services of applicant Union without assigning any reasons therefore.

In the light of contents mentioned in written arguments I perused the pleadings and evidence of workmen on record which makes it crystal clear that only 18 workmen adduced their evidence in the instant case. So there is un rebutted and uncontroverted evidence of 18 workmen which comes in category of required, reliable and credible evidence.

It is also relevant to mention here that through reference of the instant case matter of 22 workmen was referred to this Tribunal for adjudication but in the instant case only 18 workmen adduced their evidence by way of affidavit which was subsequently tendered by WW1 Sh. Bijendra Kumar. So case of remaining 4 workmen is without evidence.

Pleadings without evidence is of no avail to them. Hence claim relating to 4 workmen who have not filed affidavit to support their claim are not entitled to any relief.

So their claim entails dismissal. Which is accordingly dismissed. While claim of remaining 18 workmen namely 1. Hem Chand, 2. Sanjeev Kumar, 3. Vijender Kumar, 4. Satpal Singh, 5. Ganga Singh, 6. Vijender Singh, 7. Dharmendra Kumar, 8. Ved Prakash (Alipur Gaon), 9. Surendra Kumar, 10. Rajendra Kumar, 11. Anil Kumar, 12. Sanjay Kumar, 13. Raju, 14. Sanjay, 15. Mukesh, 16. Monesh War, 17. Pradeep Kumar, 18. Bijendra Kumar s/o Sh. Kaley singh who have filed their evidence to support their case which is without cross-examination. Although cross-examination is meant to challenge the veracity of witness.

In this background claim of 18 workmen namely 1. Hem Chand, 2. Sanjeev Kumar, 3. Vijender Kumar, 4. Satpal Singh, 5. Ganga Singh, 6. Vijender Singh, 7. Dharmendra Kumar, 8. Ved Prakash (Alipur Gaon), 9. Surendra Kumar, 10. Rajendra Kumar, 11. Anil Kumar, 12. Sanjay Kumar, 13. Raju, 14. Sanjay, 15. Mukesh, 16. Monesh War, 17. Pradeep Kumar, 18. Bijendra Kumar s/o Sh. Kaley singh are liable to be allowed inwant of cross-examination and they are entitled for claim relief for regularization considering their past service recorded to Management of BSNL.

Which is accordingly decided.

Reference is liable to be decided in favour of aforesaid 18 workmen and claim statement is partly allowed.

Ex-parte Award is accordingly passed.

Dated : 14.06.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1740.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सचिव, दिल्ली विकास प्राधिकरण, विकास सदन, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-I, दिल्ली के पंचाट (संदर्भ संख्या 75/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.07.2017 को प्राप्त हुआ था।

[सं. एल-42011/48/2012-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1740.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 75/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Secretary, Delhi Development Authority, Vikas Sadan, New Delhi and their workman, which were received by the Central Government on 12.07.2017.

[No. L-42011/48/2012-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No.75/2012

The General Secretary,
Municipal Employees' Union,
Agarwal Bhawan, GT Road,
Tiz Hazari, Delhi 110 054

...Workman

Versus

The Secretary,
Delhi Development Authority,
Vikas Sadan, INA,
New Delhi 110 023

...Management

AWARD

In the present case, reference was received from Ministry of Labour, Government of India vide letter No.L-42011/48/2012-(R(DU)) dated 02/10.04.2012 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which is as under:

‘Whether the action of the management of Delhi Development Authority(DDA), New Delhi in not regularizing the services of Smt. Jamila, W/o Kamrudin, ‘Coolie’ on daily rated from the date of appointment, i.e. 01.08.1984 till she was reinstated i.e. 07.08.2009 on the regular pay scale with retrospective effect is justified or not? If not, what relief the workman is entitled to and from which date?’

2. It is the case of Ms.Jamila (in short the claimant) that she joined employment of the management on 01.08.1984 as coolie. She was treated as daily rated/casual/muster roll worker and she was paid much less wages than her counterparts which was fixed and revised from time to time under the Minimum Wages Act. Services of the claimant herein was terminated by the management on 04.05.1994 and claimant raised an industrial dispute bearing No.246/1995 which was decided by Shri R.K. Jain, Presiding Officer, Labour Court No.IX, Delhi vide award dated 18.11.2005. It is clear from the said award that termination of the claimant was held to be illegal and Ms. Jamila was held to be entitled to reinstatement in service with 50% back wages from the date of termination of service till the date of demand notice and full wages thereafter. The management, thereafter, challenged the above award by filing writ petition before Hon’ble High Court of Delhi bearing WP(C) No.1910/2007, which was disposed of vide judgement dated 15.02.2011, which was partly allowed by the Hon’ble High Court whereby the claimant herein was held entitled for reinstatement with 50% back wages from the date of termination till the date of award.

3. It is further clear from the pleadings in the statement of claim that prior to passing of judgement by the Hon'ble High Court on 11.08.2009 claimant herein has already joined services under an application under section 17B of the Act disposed of by Justice S.N. Aggarwal. Accordingly, claimant is continuously in service since 01.08.1984 as she has been granted benefit of continuity of service vide award dated 18.11.2005. It is the case of the claimant that in view of this the claimant be treated as regular and permanent employee from the initial date of her joining but the management has not taken any steps to regularize her services, resulting in filing of the present claim.

4. Claim was contested by the management who filed written statement wherein it is alleged that in fact Shri Kamrudin in Horticulture Division on work charged establishment basis and was missing since 22.05.1981. His wife Ms.Jamila lodged a missing report with the police. Thereafter, the claimant was taken on muster roll as Coolie vide order dated 06.08.1984 after taking into consideration her children and financial hardship. The above order was subject to the condition that she would be removed from service as and when her husband joins duties. The Vice Chairman of Delhi Development Authority passed orders dated 21.04.1994 that all muster roll employees be removed at once in case there is no stay from any court and accordingly management dispensed with the services of the claimant on 04.05.1994. There is also reference to the previous round of litigation between the parties, as discussed above. It is also admitted by the management that in compliance of orders dated 11.08.2009 of the Hon'ble High Court, back wages were released in favour of the claimant.

5. It transpires from record of the case that no specific issues were framed in the matter and evidence of the claimant was recorded. The claimant, in support of her case, examined herself as WW1 and Shri Surender Bhardwaj as WW2, whose affidavits are Ex.WW1/A and Ex.WW2/A respectively. Ms. Jamila also tendered in evidence documents Ex.WW1/1 to Ex.WW1/9. Management, in order to rebut the case of the claimant, examined Shri Jitender Singh, Deputy Director as MW1. Shri Singh tendered his affidavit Ex.MW1/A in evidence and also relied on documents Ex.MW1/1 to Ex.MW1/7.

6. I have heard Shri Abhinav Kumar, A/R for the claimant and Shri Deepak Kumar Dhingra, A/R for the management.

7. It is clear from the pleadings of the parties as well as evidence on record that Smt. Jamila, claimant herein was initially engaged as a coolie on 01.08.1984. She was, in fact, treated as daily rated/casual/muster roll worker. It is also the case of the claimant that she was paid much less wages than those fixed and revised from time to time under the Minimum Wages Act. Previously, her services were terminated by the management on 04.05.1994, which resulted in raising of industrial dispute under Section 10 of the Act and her termination was admittedly held to be illegal and against provisions of the Act by the Learned Presiding Officer, Labour Court No.IX vide award Ex.WW1/4. Admittedly, an appeal was filed by the management of DDA in Hon'ble High Court of Delhi wherein also the management could not get any substantial relief. Hon'ble High Court has clarified in its order dated 15.02.2011 Ex.WW1/6 that 50% back wages would be paid to the claimant from the date of termination till date of award as she already stood reinstated in service.

8. Now, the main question which arises for consideration in the present reference is whether services of Ms.Jamila is liable to be regularized. Attention of this Tribunal was invited by the learned A/R for the claimant to Ex.MW1/W2 which shows that Ms.Jamila which shows that as per Voter I Card, age of Ms.Jamila as on 01.01.2015 is 58 years and she is show to be wife of Kamrudin. Admittedly, Shri Kamrudin has not come back after he was reported missing and therefore he is presumed to be dead. Learned A/R for the claimant further invited attention of the Tribunal to seniority list Ex.MW1/W1 which contains list of workmen who are doing similar job of mali/chowkidar/coolie/khalasi/Sweeper on work charge establishment in the pay scale of Rs.750-12-870 alongwith other allowance. These appointments are stated to be purely on temporary basis. It is clear from perusal of above list that date of joining of workmen at serial No.1 to 13 is November 1989 whereas the claimant has admittedly joined services of the management on 01.08.1984. There is no evidence adduced by the management on record to show that the work being performed by the claimant herein is different from the work being assigned to similar incumbents whose names are mentioned in the list Ex.MW1/W1, Workmen at serial no.1, 3 and 5 have been regularized as is clear from the statement of MW1 Shri Joginder Singh, who has admitted this fact in his cross examination. He has further deposed that Ms.Jamila, claimant herein was engaged as muster roll employee and co-employees of the claimant Shri Dashrath, Shri Ram Bachan and Shri Durvijay whose names are mentioned in Ex.MW1/W1 have been regularized. They were also admittedly working on muster basis. This witness gave an evasive reply to most of the questions put to him by the A/R for the claimant and it is not clear whether the aforesaid mentioned three persons joined the management in 1984 or thereafter. However, it is clear from column No.4 of Ex.MW1/W1 that their date of joining is mentioned as 24/24.11.1989, thus they have joined services much after the claimant herein joined the service of the management in 1984.

9. Learned A/R for the claimant invited attention of the Tribunal to Ex.MW1/W2 wherein in the voter I Card issued by Election Commission age of the claimant as on 01.01.2015 has been shown be to 58 years. In the adhar card, as on 31.12.2016, her age is shown as 60 years and as such management is not in a position to keep her on muster roll.

10. Shri Dhingra, learned A/R for the management invited attention of this Tribunal to the document Ex.MW1/4 which shows that Ms.Jamila was given employment when her husband was declared missing. It is mentioned in the said letter that she may be engaged on muster roll as coolie purely on compassionate/humanitarian grounds.

11. There is considerable force in the submissions raised on behalf of the claimant to the effect that when in the same establishment/department, claimant is performing similar/identical functions/job, she is to be paid the same wages which her counterparts were doing. In this regard it is appropriate to refer to the judgement of Hon'ble Supreme Court in State of Punjab Vs. Jagjit Singh (2017) Lab.I.C. 427 whereby while considering concept of 'Equal pay for equal work', it was observed as under:

The principle of 'equal pay for equal work' can be extended to temporary employees (differently described as workcharge, daily-wage, casual, ad-hoc, contractual, and the like). It is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work, cannot be paid less than another, who performs the same duties and responsibilities. Certainly not, in a welfare state. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any one, who is compelled to work at a lesser wage, does not do so voluntarily. He does so, to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lesser wage. Any act, of paying less wages, as compared to others similarly situated, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.

12. Therefore, there is no merit in the contention of the management what workers who were on daily wages were entitled for regularization and other workers working purely on muster roll were not entitled to be considered for regularization. Learned A/R for the management could not show or cite any office order/rules/regulations wherein such artificial distinction has been made by the Government to the detriment to the interest of the claimant. It has been held by the Hon'ble Supreme Court in a number of cases that even engagement of a workman on casual, temporary or daily basis would attract provisions of Section 2(s) of the Act. In this regard, specific reference can be made to the case of Devender Singh Vs. MC Sanaur [AIR (2001) SCC 2532] wherein while interpreting provisions of Section 2(s) of the Act, it was held as under:

'The source of employment, the method of recruitment, the terms and conditions of employment/contract of service, the quantum of wages/pay and the mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of [Section 2\(s\)](#) of the Act.

The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of [Section 2\(s\)](#) from which it can be inferred that only a person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman.

15. Whenever an employer challenges the maintainability of industrial dispute on the ground that the employee is not a workman within the meaning of [Section 2\(s\)](#) of the Act, what the Labour Court/Industrial Tribunal is required to consider is whether the person is employed in an industry for hire or reward for doing manual, unskilled, skilled, operational, technical or clerical work in an industry. Once the test of employment for hire or reward for doing the specified type of work is satisfied, the employee would fall within the definition of 'workman'.

13. Having regard to the ratio of law discussed above authorities, it is clear that Ms.Jamila, claimant herein was also entitled to be regularized from the date of her initial appointment on 01.08.1984. Ms. Jamila has virtually attained 60 years, she can only be given difference in wages/salary to which she was otherwise been entitled had she been regularized in service in 1984.

14. As a sequel to my discussions made hereinabove, it is held that action of the management in not regularizing services of Ms.Jamila from is held to be illegal and unjustified under the law. It is held that she is entitled for regularization from the date of her appointment, i.e. 01.08.1984 on regular pay scale with retrospective effect as well as all retiral benefits. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : July 10, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1741.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सेंट्रल बोर्ड ऑफ सेकंडरी एजुकेशन (सी.बी.एस.ई.), इंडस्ट्रियल एरिया, आई.पी. एक्सटेंशन, दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-I, दिल्ली के पंचाट (संदर्भ संख्या 60/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.07.2017 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1741.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 60/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the M/s.. Central Board of Secondary Education (C.B.S.E.), Industrial Area, I.P. Extension, Delhi and their workman, which were received by the Central Government on 10.07.2017.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1: ROOM NO. 38-A (GF), KARKARDOOMA COURT COMPLEX, SHAHDRA, DELHI- 32

ID NO. 60/2013

Sh. Kuldeep S/o Sh. Mohan Sharma
C/o General Mazdoor Lal Jhanda Union,
B-1/A, Nathu Colony (East)
100 Foota Road,
Shahdara, Delhi – 110093

...Workman

Versus

M/s.. Central Board of Secondary Education
(CBSE), P.S. 1-2, Industrial Area,
I.P Extension, Patparganj,
Delhi – 110092

...Management

AWARD

1. The present claim has been filed by the workman under Section 2 A Sub Section 2 of ID Act 1947 (In Short the Act) with the averments that workman was working with CBSE w.e.f. 20.06.2017 in the post of Mali on daily wage basis. The wages were paid to the workman on monthly basis. The wages last drawn were Rs. 7000/- per month.

2. It is the case of the workman that he has been performing his duty with sincerity, diligence, devotion, and dedication. He had uninterrupted, unblemished and meritorious service record and he never gave any cause of complaint to the management. The workman was not issued any appointment letter, wage slips, leave book nor he was covered under ESIC and Employees Provident Fund Scheme. The workman was engaged in maintaining of gardens, lawns parks, flowerpots and other horticulture works etc.. The workman was engaged in the period of 01.07.2007 to 30.06.2008. However, he was being paid under the different names namely Suresh, Pratap, Om Pal, Rajesh, Ramesh, Ravi, Gaurav, Deepak, Pawan etc. The workman was also paid some wages in his own name i.e, Kuldeep Sharma/Kuldeep.

3. The service of the workman was terminated on 03.01.2012 arbitrarily without notice. His earned wages for the month of December, 2011 and for three days in the month of January, 2012 were not paid by the management. The workman approached the management from time to time for his regularization but of no use. The workman made written representation dated 16.09.2011 to the management for increase in his pay and later on reminder was given on 31.10.2011 but without any effect. Thereafter another reminder was given on 13.12.2011. The management had finally terminated his service arbitrarily without any notice.

4. The workman has served a demand notice dated 18.12.2012 to the management through speed post on 15.03.2012 and 19.03.2012. The management received the said notice but did not reply. The workman approached

Conciliation Officer wherein, the management filed its reply and alleged that the performance of the workman was not upto the mark as such service of the workman was terminated. Finally a prayer has been made for declaring the termination of the workman to be illegal and unjustified along with reinstatement with back wages.

5. The management filed reply to the above claim and took various preliminary objections regarding maintainability and workman having been engaged causally and has terminated due to serious indiscipline committed by him on merits. It was admitted in the para 2 of the claim under reply is it is submitted that the workman, Sh. Kuldeep worked with CBSE from 01.07.2007 to 31.12.2007, 01.01.2008 to 30.06.2008, 01.12.2010 to 31.12.2010, 01.01.2011 to 31.01.2011, 01.08.2011 to 31.08.2011. He was never working continuously with the management. The management denied other averments made in the statement of claim.

6. Against this factual background my Ld. Predecessor in this tribunal vide order dated 30.07.2013 framed the following issues:-

- (i) Whether workman rendered continuous service of 240 days in preceding 12 months from the date of termination of his services ?
- (ii) Whether claimant is entitled to relief of reinstatement in service ?

7. The workman is order to proof the case against the management examined himself in Ex.WW1 and his affidavit WW1/A and tendered his documents on Ex.WW1/1 to Ex.WW1/27. Workman also examined Shri Bhagat which is Ex.WW1.

8. The management in order to revert the case of the workman examined Shri V. Pattabhi Raman as MW1 and his affidavit is Ex.MW1/A.

9. **Finding on Issue No. 1**

The first and the foremost question in the present case is whether the workman has worked and rendered continuous service of 240 days prior to his termination by the management. It is clear from the pleading of the parties that workman has come with specific plea that he has joined with the management in the post of Mali on 20.06.2007 on daily wages basis. It is also the case of workman that he was paid wages during the period of 01.07.2008 to 30.11.2010 in his own name i.e, Kuldeep Sharma. Later on he was paid wages in different name namely Suresh, Pratap, Om Pal, Rajesh, Ramesh, Ravi, Gaurav, Deepak and Pawan etc. whose name in fully detailed in para 7 of the affidavit. It is also important to mention here that management in its reply in para 2 of his written statement admitted factum of engagement for the different period. Detailed of which are mentioned in the affidavit of Shri V. Pattabhi Raman i.e, Ex. MW1/A.

10. It is further clear from the cross examination of the Shri V. Pattibhi Raman that service of the defendant was taken by the management for different time details of which is given in his affidavit i.e, Ex. MW1/A. He has admitted that the typographical error in para 9 of his affidavit regarding the date. He had further admitted that documents EX. WW1/1 to Ex.WW1/12 as well as Ex. WW1/21 to Ex.WW25 are the documents of the management. He had further admitted that the management had removed the service of the workman though he is not aware of the exact date. He further admitted that no notice was served by the management before his termination as workman was a daily wager as no such notice was required.

11. The statement made by the workman Shri Kuldeep Sharma as WW1 and that of Shri Bhagat Singh WW2 is in consonance with the statement of claim.

12. There is no dispute with the proposition of law that initial onus is always upon the workman to prove that he had worked for 240 days in a calendar year prior to his termination. This view has been taken in *Batala Coop. Sugar Mills Ltd. Vs Sowaran Singh* (2005) 8 Supreme Court Cases 481. In *R.M. Yellatti V. The Asstt. Executive Engineer 2006(108) FLR 213 (S.C)*. The decisions referred to above were noted and it was held as follows :

“Analyzing the above decisions of this Court, it is clear that the provisions of the Evidence Act in terms do not apply to the proceedings under section 10 of the Industrial Disputes Act. However, applying general principles and on reading the aforesaid judgments, we find that this Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping in the witness Box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily waged earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus in most cases, the workman(claimant) can only call upon the employer to produce before the Court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self-serving statements made

by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non-production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the Tribunal to draw an adverse inference against the management. Lastly, the above judgments lay down the basic principle, namely, that the High Court under Article 226 of the Constitution will not interfere with the concurrent findings of fact recorded by the Labour Court unless they are perverse. This exercise will depend upon facts of each case.”

The above position was again reiterated in ONGC Ltd. and another V. Shyamal Chandan Bhowmilk; Chief Engineer (2006) 1 SCC 337, Ranjit Sagar Dam and another V. Sham Lal AIR 2006 SCW 3574.

13. Yet, again in the case of Director Fisheries Terminational Division Vs. Bhikubal Moghatibhai chavda (2010) 1 SCC 47. The entire spectrum of the case law was considered and it was observed if the workman has produced the best possible evidence which was in his possession, in that eventuality, the burden would stand discharged and the same would shift upon the management to show that workman has not completed 240 days in a calendar year prior to his termination.

14. It is thus clear from the legal position discussed above that the management is also required to place on record the entire record pertaining to payment of salary/ wages Muster Roll etc. so as to prove the exact date which actually worked. The workman herein, as well as Shri Bhagat as WW2 has clearly stated that he has been engaged with the management in the post of Mali since 20.06.2007. The management has also not dispute the factum of his engagement and what is being disputed by the management is the number of days/ period during which workman performed duties as a Mali. The workman has also tendered in his evidence administrative approval i.e, Ex WW1/2 which shows workman Shri Kuldeep has engaged from 01.12.2010 to 31.12.2010 i.e, 26 days in a month and was paid Rs. 5278/-. There is also document Ex.WW1/3 which again shows that the workman Shri Kuldeep worked w.e.f. 01.02.2011 to 28.02.2011 i.e, 27 days. Documents Ex. WW1/4 shows that Mr. Mohan was engaged as a workman and paid wages by the management. It was submitted on behalf of the workman that workman was working with different names and all this was done by the management so that workman could not claim for regularization. He had referred in this regard in his affidavit as well as statement. Sh. V. Pattabhi Raman MW1 has not stated anything regarding getting of work from the workman Shri Kuldeep under different name which fortify the version of the workman. There are other documents i.e, Ex.WW1/5 to WW1/21 which shows that workman had worked in his own name as well as in different names during the period mentioned in these documents. In such the situation, the management has required to file the copies of the muster rolls as well salary slips so as to show that workman Shri Kuldeep is not continuous employee of the management since 2007. In such circumstances when the best evidence was in possession of the management and the same has not been produced, this court is bound to draw adverse inference against the management. Thus, the version of the workman that he has been continuous employment for a period of 240 days in a calendar year stands proved. Accordingly, it is held that workman was in the service of the employment for a period of 240 days prior to his termination.

14. Findings on Issue No. 2

Now the residual issue before this tribunal that workman is entitled for in the relief of reinstatement in service. it is clear from the stands of the management workman was engaged by the management as Casual Labour for watering of the plants and the period the engagement is also mentioned in Para 2 of written statement. Admittedly, no notice was served upon the claimant before order of his termination nor workman was given one month salary in lieu of such notice the management has come up with the plea that workman was found absent from office during working hour and was found working privately in Banglaw's nearby for which he was warned several times but of no effect. In view of the serious indiscipline on the part of the workman the management had left no option but to remove from the service of workman.

15. In the present case there is no proof of show cause notice or nothing given to the workman by the management regarding committing of indiscipline on his part. There is also no formal letter of termination/removal issued to the workman the law is very clear that if a workman is guilty of any kind of indiscipline he must be afforded a reasonable opportunity to explain the circumstances and workman must be issued show cause notice/ memo. There is no mention of the dates during which the workman remained absent from duty and performed work in private Banglaw's. Shri V. Pattabhi Raman MW1 has also admitted this fact that no memo or show cause notice was issued to the workman in this regard. He had virtually admitted that the workman was removed from the service without any notice and no such show cause notice is required as workman is a daily wager.

16. It is apposite to mention here that even a casual wager or a daily wager also falls within the definition of the workman as defined under section 2(s) of the Act. This view has been taken in several cases the Hon'ble Apex court and specific reference can be made to the case of Devender Singh Vs. Municipal Council, Sanaur AIR 2011 SCC 2532

wherein, while discussing ambit and scope of the definition of workman under section 2(s) of the Act it was held as under:

“The source of employment, the method of recruitment, the terms and conditions of employment/contract of service the quantum of wages/pay and the mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of section 2(s) of the Act. The definition of the workman also does not make any distinction between full-time and part-time employee or a person appointed on contractor basis. There is nothing in the plain language of section 2 (s) from which it can be inferred that only a person employed on regular basis or a person employed for doing whole-time job is a workman and the one employed on temporary, part-time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman. wherein, while discussing the ambit and scope of under section 2 (A) of the Act.”

17. In view of the legal position discussed above, it is Crystal clear that the workman herein, was a workman at all the material time and for his removal a show-cause notice under section 25 (F) of the Act or one month salary. In lieu of notice was required to be given to such workman, which admittedly was never done by the management. Since the removal/termination of the workman herein, is against the mandatory section 25 (F) of the Act as such the action of the management is held to be arbitrary as well as illegal.

18. There is nothing in the statement of the claim that workman is not gainfully employed after his termination nor there is any mention of this fact in his affidavit Ex.WW1/A. In such circumstances the plea of the workman regarding grant of full back wages cannot be accepted. It is appropriate to refer to the decision of Hon'ble Apex Court in Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) 2013 AIR SCW 5330 (B) : 2013 Lab I C 4249 : 2013 (11) Scale 268. Where it is as under:

“Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the court of first instance that he/she was not gainfully employed or was employed on lessor wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averment about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.”

Relief :

As a sequel to my above discussion, termination/removal of the workman by the management is arbitrary and illegal, as such workman is entitled to be reinstated with 50% of back wages from 03.01.2012 i.e., from his termination. He is also entitled for one month salary of the Nov 2008. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : 04-07- 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1742.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, भारत संचार निगम लिमिटेड, नोएडा, उत्तर प्रदेश एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-I, दिल्ली के पंचाट (संदर्भ संख्या 89/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.05.2017 को प्राप्त हुआ था।

[सं. एल-42011/53/2007-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1742.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 89/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the

General Manager, Bharat Sanchar Nigam Limited, Noida, Uttar Pradesh and their workman, which were received by the Central Government on 25.05.2017.

[No. L-42011/53/2007-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 89/2011

Shri Dinesh Kumar Singh, S/o Shri Prem Singh
R/o Village Mampur, Post: Lamhua (Budhapur)
Sultanpur

...Workman

Versus

The General Manager,
Bharat Sanchar Nigam Ltd.
S-19, Telephone Exchange,
NOIDA (Uttar Pradesh)

...Management

AWARD

In the present case, matter was referred to Central Government Industrial Tribunal-cum-Labour Court No.II, New Delhi vide letter No.L-40012/53/2007-IR(DU) dated 27.11.2007 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

‘Whether the action of the management of the General Manager(Telecom) BSNL, NOIDA in terminating the services of their workman Shri Dinesh Kumar Singh with effect from 11.04.1995 is legal and justified? If not, to what relief the workman is entitled to?

2. Both parties were put to notice and the claimant, Shri Dinesh Kumar Singh, filed statement of claim, wherein it is averred that he was employed as casual labour by the management after completion of formalities, as casual labour on 12.04.1994. Claimant has been working to the entire satisfaction of the management and was having an unblemished record of service to his credit. Claimant has completed 240 days as casual labour from 12.04.1994 to 10.04.1995 and was pursuing his case for temporary status and regularization of service in accordance with relevant rules and instructions. Claimant has worked for more than 240 days in a calendar year preceding his termination as is clear from the chart given in para 2 of the statement of claim. Management has taken work from the claimant even on holidays and Sundays. This fact can be ascertained from the attendance register kept by the management.

3. It is the case of the claimant that he was discharged from service on 11.04.1995 without any rhyme or reason and without complying with the provisions of Section 25-F of the Act. Thereafter, the claimant submitted a demand letter upon the management when his verbal demand was not accepted on 08.02.1997 and prayed for reinstatement in service as well as other benefits, but of no use. The claimant was entitled to get temporary status and regularization in service as per rules. Even persons junior to the claimant have been given benefit of regularization but the claimant was deprived of the same and in his place, one Shri Pradeep Kumar was engaged as casual labour in the month of April 2002. Attendance of the claimant was being regularly recorded in the register meant for the same. Even termination of service of the claimant is totally illegal and unjustified and he has made a prayer for reinstatement in service with continuity of service and full back wages.

4. Management has demurred the claim of the claimant herein wherein certain preliminary objections have been taken. Reference is also made to OA No. 2016 of 1995 before Central Administrative Tribunal, wherein almost similar averments were made and Hon’ble Principal Bench of CAT dismissed his application as not being maintainable. He again filed an OA No. 2715 of 1997 before CAT representing that he has worked with the management from 12.04.1994 to 31.12.1994 and thereafter from 03.03.1995 to 10.04.1995 and completed 240 days. It was also claimed that he submitted a representation dated 08.02.1997 before Sub-Divisional Officer, Phone II, RLU Exchange, Sector 39, NOIDA. Hon’ble Principal Bench of CAT, New Delhi on 15.09.1998 disposed his application in view of assurance from the management that his representation would be considered on merits and result thereof would be communicated to the claimant within a period of three months. In compliance to the orders of the Hon’ble CAT, letter dated 17.11.1998 was sent to the claimant at the address given in the order by registered post for submitted detailed particulars regarding his working period mentioned in his representation dated 08.02.1997; however, the same was received back undelivered with some illegible remarks of the post man.

5. Again the claimant filed an OA bearing No.1710 of 2002 before CAT, Principal Bench, New Delhi representing the above. Hon'ble Principal Bench, CAT vide order dated 12.07.2002 disposed of his application with direction to consider the case for re-engagement in accordance with rules and instructions on the subject within three months.
6. On merits, management denied most of the averments contained in the statement of claim. It is denied that the claimant was employed by the management in the service of erstwhile DOT/DTS, now converted to BSNL, which came into existence on 01.10.2000. Claimant has not worked for 240 days in a calendar year. In fact, no industrial dispute ever existed between the parties as the management never terminated services of the claimant. In the remaining paras, management has denied the averments contained in the statement of defence and prayed for dismissal of the claim.
7. It is just clarified that no issues were specifically framed by my learned predecessor from the pleadings of the parties and this Tribunal is required to answer the reference made by the appropriate Government.
8. Vide order No.Z-22019/6/2007-IR (CII) dated 30.03.2010, the case was transferred to this Tribunal for adjudication.
9. Claimant, in order to prove his case against the management, examined himself as WW1 and tendered in evidence his affidavit Ex.WW1/A alongwith documents Ex.WW1/1 to Ex.WW1/3. Management has not examined any witness in support of the stand taken in their pleadings. Moreover, management was proceeded ex-parte by this Tribunal vide order dated 21.07.2016 as none had appeared on behalf of the management. Claimant has also filed written submissions in support of his case.
10. It is clear from the pleadings on record that initially the claimant filed OA No. 2016 of 1995 before the Principal Bench of Hon'ble CAT against the management and the same was decided vide order dated 20.08.1996. It was held that since alternative remedy is open to the claimant, as such, petition filed before Hon'ble CAT was held to be premature and not maintainable. Accordingly, application before Hon'ble CAT was dismissed. There is also another copy of order dated 15.09.1998 of Hon'ble CAT on record and it is clear from this order that the claimant has approached the Hon'ble CAT with similar averments as made in the present case that he has completed 240 days before his termination. Claimant has further prayed that he was entitled for temporary status in December 1994 and has made representation to the management in this regard. Hon'ble CAT has given directions to the management to consider the case of the claimant within a period of three months.
11. It is further clear from affidavit of Shri Sukhvir Singh, Assistant General Manager, though not exhibited, as he has not entered into the witness box, that pursuant to the second order passed by Hon'ble CAT, claimant was given work from 03.03.1995 to 08.04.1995. He has further stated that in compliance of the order of CAT, letter was sent to the claimant on 17.11.1998 at his address by registered post for deciding his case on merits. However, the said letter was received back undelivered. There were certain illegible comments of the postal department on the envelope. Hence, it was not possible to decide the representation on merits. It was thereafter that the claimant had filed OA No. 1710 of 2002 before Principal Bench of Hon'ble CAT, wherein directions was given to management to consider the case of the claimant for re-engagement in accordance with rules and instructions within three months. Attested copy of the order dated 12.07.2000 is also held on record (MW-7). It is further clear that Hon'ble Principal Bench of CAT on 25.10.2002 allowed four weeks time to decide the representation of the claimant. Thereafter, the claimant has made a representation on 12.11.2002 along with photocopy of duty chart. However, documents filed by the claimant could not be verified by the management with those available on record in the office. The claimant could not furnish any positive proof of his having worked for 240 days. Thereafter, claimant had filed OA No.1074 of 2003 again before the Principal Bench of Hon'ble CAT and it was dismissed by the Hon'ble Tribunal vide order dated 1st May 2003 (MW-11). Finally, the claimant filed a civil writ petition No.6180 of 2003 before the Hon'ble High Court of Delhi, which was also dismissed by observing that the petitioner is at liberty to seek appropriate remedy before he appropriate forum. It was thereafter, that the present reference was made by the appropriate Government.
12. It is clear from the matrix of the case that time and again the claimant has been approaching Hon'ble CAT for redressal of his grievance and it has throughout been his stand that he has worked for more than 240 days in a calendar prior to his termination. Claimant has also alleged that he has rather worked for 302 days after his engagement in April 1994, details of which are as under:

Month	No. of Days
April 1994	19
May 1994	31
June 1994	30
July 1994	31

August 1994	31
September 1994	30
October 1994	31
November 1994	30
December 1994	30
January 1995	00
February 1995	00
March 1995	29
April 1995	10
TOTAL	302

13. There is also mention that his last drawn wages was Rs.55.00 per day. Claimant has also filed the scheme relating to casual labour, dealing with grant of temporary status to them. There is hardly any dispute regarding the said scheme. Stand of the management is also clear that on the basis of directions given by Hon'ble CAT, he was offered employment. Now, the only question which arises for determination is whether provisions of Section 25-F of the Act are applicable and service of the claimant has been terminated in violation of provisions of the Act. Learned A/R for the claimant has highly relied on HD Singh Vs. Reserve Bank of India (1985) 2 All India Services Law Journal 457 wherein Hon'ble Apex Court also under similar circumstances observed that striking of the name of the workman from the rolls of bank would amount to termination and such a dispute is securely covered by provisions of Section 2A of the Act. It also amounts to termination being in violation of mandatory provisions contained in Section 25-F of the Act. Law is fairly settled that in case a workman has completed 240 days prior to his termination, then management is required to serve one month's notice or pay in lieu thereof. In the case on hand, as is clear from the evidence on record, management has not served any kind of notice upon the claimant before his termination. Claimant has given details of his attendance after his engagement, in the statement of claim as well as written arguments. In such a situation, it was incumbent upon the management to have entered into the witness box and adduced sufficient evidence so as to rebut the claim of the claimant regarding his having worked for 240 days in a calendar year. No doubt in Batala Co-operative Sugar Mills Ltd. vs. Sowaran Singh (2005) 8 SCC Hon'ble Apex Court has held that initial onus to prove that the workman has worked for 240 days in a calendar year preceding his termination is always upon the workman who is required to lead sufficient evidence to prove the same. However, in the case of Director, Fisheries Terminal Division Vs. Bhikubhai Meghraj Chavda, AIR 2010 SCC 1236, wherein Batala Co-operative Sugar mills case (supra) was also discussed. Learned A/R for the claimant also relied upon the case in AIIMS Vs. Uddal (2014) (142) DRJ 569 and Municipal Corporation of Delhi Vs. Ram Milan (Manu/DE/399/2015), once the claimant has adduced evidence that he has worked for 240 days, the onus shifts upon the management to prove that the claimant has not completed 240 days in any calendar year. In the instant case since management was proceeded ex-parte and has not placed on record any document regarding the number of days worked by the claimant. In such a situation, this Tribunal is bound to draw adverse inference against the management. Management, in its reply, has admitted that the details of working days submitted by the claimant do not tally with official record of the management. But what is the official record has not been shown or filed by the management so as to prove that 240 days of work was not completed before his so-called termination.

14. In view of the evidence adduced by the claimant, it is held that the claimant was in the employment of the management and has worked for 240 days in a calendar year. Since in the present case, there is no compliance of provisions of section 25-F of the Act by the management, which requires the management to serve one month's notice before ordering his termination or one month's pay in lieu thereof. As such, action of the management is held to be illegal and not justified under the law.

15. Now the residual question is as to what relief the workman is entitled to. Affidavit of the claimant clearly speaks of the fact that the claimant is unemployed from the date of his termination and his termination has been held to be illegal and not justified, this Tribunal is of the considered opinion that the claimant is entitled to regularization with full back wages. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : May 19, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1743.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, मिशन निदेशालय – आरजीकेए, खेल विभाग, कौशल विकास मंत्रालय, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-I, दिल्ली के पंचाट (संदर्भ संख्या 49/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.07.2017 को प्राप्त हुआ था।

[सं. एल-42012/147/2014-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 17th July, 2017

S.O. 1743.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 49/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Delhi as shown in Annexure, in the industrial dispute between the employers in relation to the Director, Mission Directorate – RGKA, Department of Sports, Ministry of Skill Development, New Delhi and their workman, which were received by the Central Government on 10.07.2017.

[No. L-42012/147/2014-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 49/2015

Smt. Paramjeet Kaur,
C/o Sports Authority of India Kamgar Union,
R. No. 95, Barrack No. 1/10, Jam Nagar House,
Shahjahan Road,
New Delhi – 110069

...Workman

Vs.

The Director, Mission Directorate-RGKA,
Department of Sports, Ministry of Skill Development,
Entrepreneurship, Youth Affairs & Sports,
Cafeteria Bldg, Pragati Vihar Hostel, CGO Complex,
New Delhi – 110003

...Management

AWARD

Pursuant to the receipt of order dated 20.01.2015 from Government of India Ministry of Labour under clause d of Sub Section (I) and Sub Section 2-A of Section 10 of Industrial Dispute Act (in Short the Act), vide order No. L-42012/147/2014 (IR (DU)). This Tribunal is required to adjudicate an Industrial dispute/reference, the terms of which is as under:-

- (i) “Whether the action of the management for termination the services of Ms. Paramjeet Kaur w.e.f. 30th Sep.,2013 is illegal and/or unjustified and if so what directions are necessary in this respect?”
- (ii) “Whether the action of the management not paying equal remuneration to her at par with male workman in the clerical nature of job is justified and legal? If not, what directions are necessary in this respect?”

2. It is clear from the statement of claim that claimant Smt. Paramjeet Kaur was appointed vide letter No. I-1/MYAS/PYKKA/2009 dated 9th April 2010 as on contractual Basis for a period of three months or completion of assignment whichever is earlier. The conditions of 3 months as mentioned in above letter expired on 8.7.2010 and thereafter claimant is continuous in service. Contractual employment of the claimant mentioned above was simply a camouflage to deny her employment as well as equal wages given to the lower division clerk. It is a case of claimant that she was wrongly terminated on 30.09.2013 and a new person with same and similar work Data Entry Operator

(Hindi) has been appointed to deprive of her livelihood. The action of the management is alleged to be unfair and management has thus, violated as provision of section 25-F, 25-G and 25-H of I.D. Act, 1947.

3. Now the management has appointed Ms. Jyoti and Ms. Preeti after the termination of claimant for performing the same duties. The claimant has completed more than 240 days in each of the calendar year and management has thus violated provision of section 25-F without paying one month salary in lieu of one month notice as required under the law. The management had exploited her by not paying her equal salary like other employee termination previous similar work not performing of time scale HRA, CCA, DA, etc. including medical expenses was given to the claimant by management.

4. The management is the principal employer and diverted her work without any proper order as required u/s 9 A of I.D. Act. 1947. The contractual employment is merely a camouflage and claimant is entitled for reinstatement with full back wages.

5. The claim was contested by the management who filed reply/ contra affidavit thereto and took preliminary objections inter-alia that management is not covered by definition of Industry as defined u/s 2 J of the act and claimant was issued the letter of offer of appointment on 09.04.2010 on contract basis. As per clause 5 of the said letter that the appointment can be terminated at any time from either side or payment of one month salary in lieu of such notice. The claimant has appointed as Data Entry Operator on contract basis on 12.04.2010 only for a period of 3 months or till further order whichever is earlier. The contract agreement was extended from time to time with the approval of the competent authority. The contract period of the claimant was lastly extended w.e.f 12.08.2011 for the period 6 months or till further order. The Claimant was issued one month notice in term of clause -5 of offer of appointment letter vide letter dated 28.12.2011 and therefore after her service was terminated on 01.02.2012 vide annexure R-4. The management denied other material averments made in claim statement of claimant.

6. Claimant filed rejoinder to the written statement filed by the management and retreated the stand already taken in statement of claim.

7. Against this factual background, this Tribunal on the basis of pleadings of the parties framed following issues vide order dated 05.07.2016 :-

- i. Whether the petition is not maintainable in view of the various preliminary objections ?
- ii. As in terms of reference.

8. Claimant in support of her case examined herself as WW1 and tendered in affidavit as Ex. WW1/A as well as documents Ex. WW1/1 to Ex. WW1/4.

9. The management in order to rebut the case of claimant examine Sh. Arun Kumar Singh as MW1 whose affidavit is Ex. MW1/A and he tendered his documents as Ex. MW1/1 to Ex. MW1/9.

10. I have heard Shri B. K. Prasad, A/R for the claimant and Shri Piyush Gaur, A/R for the management.

Finding on Issue No. 1

The management has specifically taken the plea in the reply/Counter affidavit that directorate being the central government department is not covered under the definition of industry as defined under section 2 J of the Act. Ld. A/R for the management could not cite any authority of our High Court or that of Hon'ble Supreme Court as to how the management i.e., department of sports of Central Government is not covered by the definition of the industry.

11. In order to appreciate the submission raised by the management it is necessary to reproduce the provision of section 2 J which defines industry as under:

“Industry” means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen.

“The definition of ‘industry’ is in two parts. In its first part it means any business, trade, undertaking, manufacture or calling of employers. This part of definition determines an industry by reference to occupation of employers in respect of certain activities. These activities are specified by five words and they determine when an industry is and what the cognate expression ‘industrial’ is intended to convey. The second part views the matter from the angle of employees and is designed to include something more in what the term primarily denotes. This part gives extended connotation. If the activity can be described as an industry with reference to the occupation of the employers, the ambit of the industry, under the force of the second part, takes in the different kinds of activity of the employees mentioned in the second part. But, the second part alone cannot define ‘industry’. An industry is not to be found in every case of employment or service. By the inclusive part of the definition the labour force employed in an industry is made an integral part of the industry for purposes of industrial disputes although industry is ordinarily something which

employers create or undertake. Before the work engaged in by an employer can be described as an industry, it must bear the definite character of 'trade' or 'business' or 'manufacture' or 'calling' or must be capable of being described as an undertaking resulting in material goods or material services. Where an activity is to be considered as an industry, it must not be casual but must be distinctly systematic and the work for which workmen are employed must be productive and the workmen must be following an employment, calling or industrial avocation. The work 'industry' must take its colour from the definition and that it discloses that a workman is to be regarded as one employed in an industry if he is following one of the vocations mentioned in conjunction with his employers engaged in the vocation mentioned in relation to the employers.

12. The Hon'ble Apex court in the case of Bangalore Water Supply and Sewerage Board Vs. A. Rajappa 1978 (36) F.L.R. 266 dealt at length with the ambit and scope of expression industry as defined in section 2 (J) of the Act and held as under:

- (a) Where a complex of activities, some of which qualify for exemption, others not involves employees on the total undertaking some of whom are not "workmen" as in the University of Delhi case (supra) or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur (supra), will be the true test. The whole undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status.
- (b) Notwithstanding the previous clauses, sovereign functions, strictly understood, (alone) qualify for exemption, not the welfare activities or economic adventures undertaken by Government or Statutory bodies.
- (c) Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then can be considered to come within section 2 (J).
- (d) Constitutional and competently enacted legislative provisions way well remove from the scope of the Act categories which otherwise may be covered thereby.
- (e) We overrule Safdarjung (supra), Solicitors' case (supra), Gymkhana (supra), Delhi University (supra), Dhanrajgirji Hospital (supra) and other ruling whose ratio runs counter to the principles enunciated above, and Hospital Mazdoor Sabha (supra) is hereby rehabilitated."

13. Applying the ratio of law given above, the job of Data Entry Operator is included in the definition of 'industry'. In view of this it is held that PYKKA Mission Project of Sport department is an industry.

Finding on Issue No. 2

Now the vital question which requires determination is: Whether the termination of service of the claimant w.e.f 30.09.2013 is legal and unjustified? In this regard it is appropriate to refer to the pleadings of the parties as well as evidence in this regard adduced by the parties. It is clear from the documents Ex. WW1/2 that claimant Pramjeet Kaur was employed as Data Entry Operator (Hindi Typist) in the Mission Directorate PYKKA, Department of Sports, Ministry of Youth Affairs & Sports, Cafeteria Building, Pragati Vihar Hostel Complex, Lodhi Road, New Delhi, w.e.f 12.04.2010 to 02.09.2013. This fact is also admitted by the management and its reply/counter affidavit. It is clear from stand of the management that offer of appointment letter was issued to her on 09.04.2010 and as per the case of management itself she was appointed on contract basis at this stage it is also appropriate to refer to clause 5 of the letter Ex. WW1/M1 which read as under:

"The Contractual assignment can be terminated at any time by giving one month notice from either side or payment of one month's remuneration in lieu thereof."

14. It is further clear from the pleadings as well as service on record that service of the claimant was extended from time to time by the management. It is also clear from the failure report dated 15.12.2014 Ex. WW1/3 that the management has taken the similar stands as taken before this Tribunal. The letter of appointment of the claimant is Ex. WW1/4 which also contain various condition of service and condition no. 5 as discussed above is the same in this letter.

15. It has also come in the evidence of Shri Arun Kumar MW1 that PYKKA scheme is functioning since 2008 and was valid till 2014. He has also admitted the issuance of letter Ex.WW1/2 which is duly signed by him. This letter clearly shows that claimant Smt. Paramjeet Kaur was directly in the employment of Mission Directorate PYKKA, Department of Sports, Ministry of Youth Affairs & Sports, from 21.04.2010 to 30.09.2013. Thus, there is no merit in the contention on the management that claimant herein was not directly in the employment of the management i.e, Mission Directorate PYKKA and the contention that the claimant was in the employment of contractor M/s New Grow Software Solutions Pvt. Ltd., to whom the contract was awarded vide Ex.MW1/7 is devoid of any merit for the reason

that the said contract is dated 31.01.2012 whereas claimant was in the employment of the management since 09.04.2010. It clearly shows that management has later on entered into an agreement with a private contractor so as to show wrongly the claimant to be in the employment of said contract. The management has not examined said contractor so as to prove that it was the contractor who was taking work from her and was also paying salary to her. The claimant has very clearly stated that she was in the employment of the management. Ex. MW1/6 is the sanction order, relied upon by the management which also shows that payment of the salary of various staff engaged by the management including Smt. Paramjeet Kaur was sanctioned by the central government after obtaining the approval of the competent authority. The said expenditure is debit to Mission Directorate PYKKA.

16. It has also come in the evidence of Shri Arun Kumar MW1 that after termination of the claimant herein, one Smt. Prity was engaged and she is still working with the management. He has also admitted that Mission Directorate PYKKA, is an office of the Department of Sports, Ministry of Youth Affairs & Sports and the computer on which the claimant wherein working belong to the management. He further made a vital admission supervision of the work was being done by the management and work of Data Entry Operator is clerical in nature. He further deposed that claimant was not being paid the same salary which was being paid to the regular employee performing the similar job. In such circumstances Ex.MW1/7 which management has entered private contractor is bogus and camouflage as such cannot be taken into consideration so as to hold that claimant was in the employment of private contractor. Thus, termination of the claimant is in the violation of section 25 (F) of the Act.

17. The Hon'ble Supreme Court in the case of Shri Jagjit Singh Vs. State of Punjab 2017 LAB IC 427 while dealing with the question of equal pay for equal work held as under:

“The Principal of ‘equal pay for equal work’ can be extended to temporary employees (differently described as work charged, daily-wage, casual, adhoc, contractual, and the like) It is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work, cannot be paid less than another, who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any-one, who is compelled to work at a lesser wage, does not do so voluntarily. He does so, to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lesser wage. Any act, of paying less wages, as compared to others similarly situate, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.”

18. Since the regular Data Entry Operator in the case on hand are performing the similar nature of work as was being performed by the claimant herein, as such she cannot be denied equal pay like her regular counterparts moreover, she was recruited in accordance with of norms and was issued letter of appointment Ex.MW1/1. The nature of her duty is/was clerical in nature and the post in question was not temporary in nature as the work was of perennial nature. Resultantly, it is held that her termination is in violation of the Act and same is held to be illegal and unjustified.

RELIEF

As a sequel to my above discussion, is held that the action of the management for terminating the service of Ms. Paramjeet Kaur w.e.f 30th Sep, 2013 is illegal and unjustified. There is no evidence on the record as to whether she was gainfully employed or not after her termination, as such, she is liable to be reinstated in service with 50% of back wages. An Award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947 for publication.

Dated : 05.07.2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 18 जुलाई, 2017

का.आ. 1744.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स जैट एयरवेज लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 98/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.06.2017 को प्राप्त हुआ था।

[सं. एल-11012/18/2008-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 18th July, 2017

S.O. 1744.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi (Ref. No. 98 of 2011) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. Jet Airways Ltd. and their workmen, which was received by the Central Government on 27.06.2017.

[No. L-11012/18/2008-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 98/2011

Shri Rajesh Kumar Rana & Others
C/o M/s Amita Gupta,
100 Sukhdev Vihar,
New Delhi

...Workman

Versus

1. M/s Sahara India,
Sahara India Centre, 8th Floor,
2, Kapoorthala Complex, Aliganj,
Lucknow
2. M/s Jet Airways Ltd.
SM Centre, Andheri-Kurla Road,
Andheri East
Mumbai 400 059

...Management

AWARD

A reference was received from Ministry of Labour vide letter No.L-11012/18/2008-IR(CM-I) dated 23.06.2009 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) vide which this Central Government Industrial Tribunal cum Labour Court No.II was required to adjudicate an industrial dispute, terms of which are as under:

‘(i) Whether the demand of Shri Ranesh Kumar Rana & 15 others (as annexed) for their absorption in Jet Lite by the management of Jet Airways with reference to the Share Purchase Agreement of dated 01.04.2007 entered by the management of Jet Airways (India) Limited, Sahara India Commercial Corporation Limited and others and Sahara Airlines Limited is justified and legal? (ii) to what reliefs are the workmen concerned entitled?’

2. In partial modification of Ministry of Labour letter referred above, vide Corrigendum dated 26.11.2009 the name of M/s Jet Airways Limited, SM Centre, Andheri-Kurla Road, Andheri East, Mumbai 400 059 was arrayed as a party in the above reference.
3. Claim statement was filed by the claimants herein, S/Shri Rajesh Kumar Rana, Shri Rakesh Rana, Krishna Kumar Bhardwaj, Baljit Singh, Narender Kumar, Anil Kumar, Subhas Rana, Rajender Singh, Umed Singh, Satinder Kumar, Anil Kumar Gulia, Naresh Kumar, Mukesh Kumar, Raghubir Singh, Bhupal Kumar Kashyap and Shri Jitender Singh, averring that they were being harassed by M/s Jet Lite after their services were transferred from Sahara Airline Ltd. allegedly on the same terms and conditions and would be given continuity of service and all consequential benefits of past service in M/s Jet Lite. Dates of joining of the claimants as Driver with Sahara India Airlines are as under:

Name S/Shri	Date of Joining
Rajesh Kumar Rana	01.03.1995
Shri Rakesh Rana	21.11.1994

Krishna Kumar Bhardwaj	20.11.1995
Baljit Singh	05.01.2000
Narender Kumar	05.01.2000
Anil Kumar	01.04.2004
Subhas Rana	01.04.2004
Rajender Singh	01.04.2004
Umed Singh	01.01.2006
Satinder Kumar	01.01.2006
Anil Kumar Gulia	01.01.2006
Naresh Kumar	01.04.2004
Mukesh Kumar	01.01.2001
Raghubir Singh	01.01.2006
Bhupal Kumar Kashyap	01.11.1996
Shri Jitender Singh	13.11.1995

4. It is further the case of the claimants that they were sent on deputation to Sahara Airlines Ltd. on 20.04.2007 for a period of 90 days. However, before completion of 90 days, they were informed vide order dated 01.06.2007 that their deputation would come to an end on 06.06.2007. The claimants were not educated. They were made tossing on various papers and were informed that Sahara Airlines Limited have transferred their entire share holding to M/s Jet Airways and hence would be treated as employees of M/s Jet Airways. Claimants were appointed as Equipment Operators in Engineering Department of Jet Lite India Ltd. with effect from 01.07.2007. Claimants were contribution Rs.900.00 towards voluntary provident fund every year and an amount of Rs.600 to Rs.1200.00 every year as donation towards corpus of Kargil Benefit Fund without consent of the claimants. Demand notice served on the management at Lucknow was returned undelivered. Finally, it has been prayed that the claimants be absorbed permanently in M/s Jet Lite India Ltd with full back wages and consequential benefits.

5. Claim was demurred by the M/s Sahara India Commercial Corporation Ltd. taking various preliminary objections inter alia of maintainability, absence of relationship of employer-employee relationship and non-existence of industrial dispute. The remaining averments in the statement of claim have been denied. However, factum of engagement of the claimants and their EC numbers, rate of salary etc. have not been denied. Finally, it has been prayed that the dispute be answered in their favour.

6. M/s Jet Airways filed statement of defence also taking preliminary objections of the claim not being maintainable in view of the fact that there is no such company in the name of Jet Airways Ltd. or Jet Airways, they not being impleaded as a party, non-espousal of the case, misjoinder of parties, dispute being *supresso varia* and suggest falsie, lack of territorial jurisdiction, reference being made with application of mind etc. On merits, management has denied the material averments contained in the statement of claim. Claimants are neither associated with them nor any right has accrued in their favour under the said agreement. It is denied that the claimants were ever transferred from Sahara India Commercial Corporation Ltd. to M/s Jet Lite (I) Ltd or were ever assured that they would be taken on their employment with continuity of service on the same terms and conditions. Claimants who were employed by Jet Lite (I) Ltd. on the terms and conditions and on an understanding as contained in appointment letter issued to them. Finally, it is denied that the claimants are entitled to any absorption with Jet Airways (I) Ltd, or Jet Lite (I) Ltd. with continuity of service with same benefits, as alleged.

7. Vide order No.Z-22019/6/2007 dated 30.03.2010, the above case was transferred by the appropriate Government to this Tribunal for adjudication.

8. Against this factual background, my learned predecessor vide order dated 15.07.2011, on the basis of the pleadings of the parties, framed the following issues:

- (i) Whether transfer of the claimants to M/s Sahara India Commercial Corporation Ltd. when management of M/s Sahara Airlines Ltd. was taken over by M/s Jet Airways Ltd., is unjust and uncalled for?

- (ii) Whether the claimants have accepted their transfer orders, alongwith ex-gratia incentive? If yes, its effects?
- (iii) Whether ambiguity in the reference order, as to the names of respective managements, can be rectified by this Tribunal, on the basis of facts pleaded by the parties?
- (iv) As in terms of reference
- (v) Relief

9. Claimants, in order to prove their case against the management, examined Shri Rakesh Kumar Rana, Shri Rajesh Kumar Rana as WW1 and WW2, whose affidavits are Ex.WW1/A and Ex.WW2/A and they relied on documents Ex.WW1/1 to 25 and Ex.WW2/1 to Ex.WW2/43 respectively. Evidence of Shri Rajesh Kumar Rana was recorded on 07.04.2014 and since no other witness of the claimant was present despite grant of various opportunities, evidence of the claimants was closed by the order of the court on the said date. Thereafter, case was listed for evidence of the management. M/s Jet Airways (India) Ltd. filed affidavit of Shri Bharat Bhushan Yadav, Manager:HR, which was later on substituted with the affidavit of Ms. Deepa Singh, Manager:HR as Shri Yadav, the earlier witness had resigned from the company.

10. Thereafter, the case was listed for examination of the witness of M/s Jet Airways (India) Ltd. on as many as 10 occasions, but neither the claimants nor any authorized representative on their behalf put in their appearance, so as to cross examine the management witness. This is clearly indicative of the fact that the claimants are no more interested in adjudication of the case on merits. Hence, this Tribunal is left with no other alternative but to pass a 'No dispute/no claim' award. However, it is made clear that there is no adjudication of the case on merits, as such, claimant is still at liberty to agitate his cause in accordance with law. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : June 5, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 19 जुलाई, 2017

का.आ. 1745.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 91/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.07.2017 को प्राप्त हुआ था।

[सं. एल-12011/01/2014-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th July, 2017

S.O. 1745.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 91/2014) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 19.07.2017.

[No. L-12011/01/2014-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947

Reference No. 91/2014

Employer in relation to the management of Bank of Baroda

AND

Their workman

Present : Shri R.K. Saran, Presiding Officer

Appearances :

For the Employers : Shri Govind Kumar, Sr. Manager Legal

For the workman : Shri B. Prasad, Representative

State : Bihar

Industry : Banking

Dated : 15/06/2017

AWARD

By order No. L-12011/01/2014-IR (B-II) dated 06/03/2014, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the workman Sri Subodh Kumar who worked as part time canteen boy on 1/3 rd wages for more than 24 years in the Manpur Branch of Bank of Baroda is entitled to be reinstated and regularised as full time Subordinate Staff ? what relief he is entitled for?”

2. The case is received from the Ministry of Labour on 18.03.2014 by CGIT No.2, Dhanbad. After receipt of reference, both Parties are noticed, The workman files their written statement on 02.05.2014 before the CGIT No.2, Dhanbad. But thereafter as per letter No.L-12011/01/2014 IR (B-II) dated 27.08.2014, the Ministry of Labour transferred the case from CGIT No.2 Dhanbad and received in this Tribunal on 11.11.2014 and registered as Ref. No.91/20014. Thereafter the management files their written statement-cum-rejoinder on 28.01.2015. No witness examined from either side. But document of workman is marked as W-1 to W-15 and one document of management is also marked as M-1 series.

3. The case of the workman is that Sri Subodh Kumar S/O Ashok Kumar Dasai has been orally appointed by the management of Bank of Baroda to discharge the duties of Part time canteen boy on 1/3rd wages of a full time subordinate Staff w.e.f. 02.05.1981. After appointment the workman had been doing the job of Part time canteen boy full time subordinate staff. He was also being paid bonus. He discharged his duties from 10 AM to 5.30 PM as canteen boy, the status of the workman was that of a temporary workmen and was required to be confirmed in the service of the Bank as per the provision of Sastry Award.

4. It is further submitted by the workman that the workman was being paid his wages through debit Voucher of the Bank and the payment was made on monthly basis, and whenever there was increase in Dearness Allowance, the same was extended to the workman. But while working with the management, the manager of the Bank of Baroda Manpur Branch informed the workman in the evening of 7th Sept. 2005 that his service stood terminated. As usual when the workman went to perform his duties on 08.09.2005 the following day, he was stopped from work without given any notice, notice pay nor any retrenchment compensation before his termination. He was worked with the bank for over 24 years continued and he was worked more than 240 days in a year as per provision of 25 (B) of the I.D Act.

5. After termination, the workman has approached the Hon'ble High Court, Patna bearing No. CWJC 14619 of 2005. The Hon'ble High Court, Patna passed the order dated 12.12.2012 with advised to consider the case of workman.

6. It is further submitted by the workman that after termination of service of the workman, a number of part time workmen of subordinate cadre were upgraded and regularised as full time subordinate staff but this workman petition for reinstatement and regularisation was rejected. Hence dispute arose.

7. On the other hand the case of the Opp. Party is that Mr Subodh Kumar was engaged intermittently on casual basis as part time canteen boy on daily wages for passing contingencies at Manpur Branch for odd jobs like providing water, tea etc. In the Branch he was engaged intermittently on casual basis by Branch Head without any authority and without following the rules of engagement of temporary employees including calling for sponsorship from employment exchange, hence his engagement was illegal.

8. It is further submitted by the management that the Manpur Branch only engaged him for passing contingencies of work intermittently on day to day basis. His engagement started in the morning and ended with the completion of the work for which he was engaged. He was never appointed in the bank by the competent authority as per the prescribed procedure. Since there was no appointment, hence there was no question of termination of his service and subsequent reinstatement in the bank.

9. After receipt of the reference both parties are noticed, and they filed their respective written statement, counter and rejoinder. Both parties also filed their respective documents. Even though workmen called for certain documents from the management, same has not been filed by the bank.

10. The short point to be decided as to whether the workman is to be regularised in the bank as a messenger or not. It is the case of the workman that he rendered services to the bank for 24 years , while the bank in need but subsequently the bank without regularising him, disallowed him to work.

11. The Bank management in the written statement has admitted that they took the services of the workman initially and that is intermittently but not regularly. Against the action of the management, the workman approached the Hon'ble High Court and the High Court directed the Bank management to consider the case of the workman but the management refused the claim of workman . The management submitted that the claim of the workman is barred here, which is a wrong notion. Since the management did not produce the documents as called for by the workman, suppression of the truth, the workman's case appears to be true.

12. Therefore the management is directed to regularise the workman within one month in the post of messenger after the publication of award in the official gazettee. If the appointment of the workman is not made after 31st days of publication of gazettee, the management is to pay the workman full salary of a messenger.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 19 जुलाई, 2017

का.आ. 1746.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 77/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.07.2017 को प्राप्त हुआ था।

[सं. एल-12012/41/2014-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th July, 2017

S.O. 1746.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2014) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 19.07.2017.

[No. L-12012/41/2014-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947

Reference No. 77/2014

Employer in relation to the management of Central Bank of India

AND

Their workman

Present : Shri R.K. Saran, Presiding Officer

Appearances :

For the Employers : Shri D.K.Verma, Advocate

For the workman : Shri D. Mukherjee, Advocate

State : Bihar

Industry : Banking

Dated : 22/06/2017

AWARD

By order No. L-12012/41/2014-IR (B-II) dated 31/07/2014, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Central Bank of India in terminating the service of the workman Sri Kanhaiya Yadav is justified on the basis of denying Natural justice? What relief he is entitled for?”

2. The case is received from the Ministry of Labour on 14.08.2014. After receipt of reference, both Parties are noticed, The workman files their written statement on 03/11/2014. The management files their written statement-cum-rejoinder on 06.02.2015. One witness from each side examined on preliminary point regarding fairness of enquiry and documents of management are marked as M-1 to M-14.
3. The domestic enquiry held by the management fair and proper by order dated 22.09.2015 and order has been not challenged by the workman, now it is final.
4. The case of the workman is that, he was appointed as permanent peon on 11.05.1981. He was promoted to the post of clerk on 14.04.1984 due to efficiency and sincerity and he was also promoted as head cashier on 26.08.2002 thereafter he was posted in Siswan Branch as Special Assistant w.e.f. 10.10.2014 but on 20.02.2012 a false and frivolous charge sheet issued alongwith supplementary memo on 11.06.2012.
5. It is further submitted by the workman that the allegation levelled in the chargesheet was not proved in the departmental enquiry through legal evidence. All witness were neither examined in his presence nor he was given full opportunity to cross-examine the witness. He was also not given full opportunity to adduce his defence witness. The finding of the enquiry Officer is perverse and not based on evidence on record. On the basis of illegal and perverse finding of the enquiry officer the management dismissed the concerned workman from service during the pendency of conciliation proceeding.
6. The workman also submits that the alleged documents neither prepared by him nor the same bears his signature so, he requested the management to verify through hand writing expert as it will go against the management, it was not done, and he vehemently protested against the illegal dismissal but without any effect, hence dispute arose.
7. On the other hand the case of the management is that the concerned workman has committed act of gross misconduct under clause 5 (j) hence disciplinary action was taken.
8. The allegation levelled against him in the aforesaid charge sheet during his tenure as Special Assistant from 14.10.2008 to 16.02.2012 at Siswan Branch, he was involved in reckless financing. The workman concerned in connivance with borrowers cheated the Bank by interviewing the borrowers and prepared the memorandum for sanction of CKCC loan accounts with their documentation on the basis of which CKCC accounts were sanctioned and later on most of the accounts found fake. The workman concerned has signed on blank assessment form. The workman submitted pre-inspection report in some of the accounts in which borrower found fake. Even loan applications which were processed by the workman concerned were not fully filled up and photograph were either not taken or not attested which is against the norms of financing.
9. The enquiry Officer has conducted domestic enquiry in presence of workman concerned as well as his defence representative, the management witnesses were examined and cross examined. The workman concerned also examined his defence witnesses.
10. The enquiry officer submitted his report holding therein that the allegations levelled against him is proved and held him guilty of six charges out of the eight charges contained in the chargesheet.
11. The disciplinary Authority examined the enquiry proceeding and enquiry report and concurred with the findings of Enquiry officer and thereafter issued second show cause notice to the workman concerned and supplied the copy of enquiry report with opportunity to the workman to submit his representation.
12. The Disciplinary Authority issued proposed punishment order to the workman concerned with an opportunity to hear him on the point of proposed punishment. Thereafter the Disciplinary Authority passed the final order and awarded the punishment of dismissal from the service of the Bank.
13. After the reference is received, both parties are noticed and they filed their respective written statement, counter, rejoinder and document. The workman in the present case was a clerk of the bank and he alongwith two to three managers for sanctioning loan illegally in connection with this alleged fraud. The dismissal was done on the basis of departmental enquiry. The enquiry held fair and proper in this case.

14. While hearing the case, the workman filed a judgment of High Court, where one of the officer of the management involved in the said alleged fraud, one manager was not found guilty and was ordered to be reinstated, and also reinstated as reported. The judgment of High Court has been filed in this case. If that be so the workman be reinstated in his post immediately within one month from the date of publication of this award in the official gazettee on parity as otherwise the management to pay the back wages to the workman from the 31st day of the publication of the award in the gazettee.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 19 जुलाई, 2017

का.आ. 1747.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 16/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 19.07.2017 को प्राप्त हुआ था।

[सं. एल-12012/90/2009-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th July, 2017

S.O. 1747.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur (U.P.) as shown in the Annexure in the Industrial Dispute between the management of Canara Bank and their workmen, received by the Central Government on 19.07.2017.

[No. L-12012/90/2009-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT, KANPUR

Industrial Dispute No. 16 of 2010

Between-

Bhuri Singh son of Ramji Lal,
Bank Compund, Saket Coclony,
Hathras U.P.

And

The Deputy General Manager,
Canara Bank Circle,
Office,
71 Nehru Nagar,
Agra.

AWARD

1. Central Government, Mol & Employment, New Delhi vide notification no. L- 12012/90/209-IR (B-II) dated 02.02.2010, has referred the following dispute for adjudication to this Tribunal.
2. Whether the action of the management of Canara Bank, Lucknow now at Agra Circle Agra in imposing punishment of compulsory retirement from the bank service vide order dated 11.10.2004 of the competent authority on Sri Bhuri Singh son of Ramji Lal is just & proper? What relief the concerned applicant is entitled to?
3. It is common ground that the worker was employed as sub staff in Canara bank and was posted at the bank's kailora branch in district Hathras. While working as such he was served with a charge sheet no. LC/DAC/W-03/2004 dated 23.01.2004 and consequent upon issuance of charge sheet an enquiry was got instituted against the applicant and Sri Bijendra Pal Singh was appointed as Enquiry Officer to conduct the enquiry. The enquiry was commenced on

18.03.04 and was concluded on 25.04.04 by the enquiry officer who submitted his findings dated 26.07.2004 to the Deputy General Manager, Lucknow, and the said Dy. General Manager, Lucknow vide his letter No. LC/DAC/703/2004 dated 05.08.04 forwarded a copy of the enquiry finding to the worker directing him to make his submission if any over the findings enquiry officer. The worker made his submission to the Dy. General Manager against the finding of the enquiry officer vide his letter dated 28.08.04, therefore the competent authority issued a show-cause notice to the worker vide notice dated 02.09.08 proposing the punishment of compulsory retirement and to this effect he also granted personal hearing to the applicant which took place on 08.10.04, therefore, disciplinary authority inflicted the punishment of compulsory retirement upon the worker which was communicated vide order dated 11.10.04. Although in the said letter it was stated that the copy of original punishment order is enclosed but the same was not enclosed with the said letter. Thereafter the worker preferred an appeal dated 27.11.2004 to the General Manager which was rejected by the said authority vide letter dated 17.06.05.

4. In the facts and circumstances of the case it was alleged by the worker that though in the letter of the disciplinary authority it was mentioned that original copy of punishment order is enclosed but no such order was enclosed with order dated 11.10.04 of the disciplinary authority and being so the punishment order is illegal and unjustified. The worker has also challenged the order sheet on the ground that the alleged incident appears to have happened on 29.04.03 and 10.05.03 but charge sheet has been issued on 23.01.04 which proves that the charge are false and baseless and have been framed with a biased mind to victimize the worker. Therefore, the punishment inflicted upon him deserve to be set aside. The worker has further stated in connected with the alleged incident that an investigation was not made by deputing Sri A K Singh who in his report has stated that he visited Kailora Branch on 10.05.03 to investigate into the alleged incident but he submitted his report as late as on 04.11.03 that is after six months which again proves that the charge are false and have been fabricated and worker has been victimized. There is no evidence relating the incident of 29.04.03. A joint statement was submitted by the staff members of the branch but none has been examined by the enquiry officer to corroborate the alleged incident as such the same has no evidentiary value therefore it cannot be said that the charges stands proved against the worker.

5. In the basis of above allegation it has been prayed by the worker that the punishment order passed against him being illegal should be set aside and he be reinstated in the service with full back wages, continuity of service and with all consequential benefits attached with the post.

6. Management has filled written statement refuting the claim of the worker and stated the entire incident which took place on 29.04.2003 in the branch and on 10.05.03 took place in the cabin of the branch manager as narrated in the charge sheet. It is also stated that the management witnesses were examined and the same have properly been cross-examined by the defence representative. The worker did not produce himself in the inquiry as witness to controvert the allegations of the charges. The enquiry officer gave full and proper opportunity to the worker for his defence and after concluding the inquiry prepared inquiry report and submitted the same to the disciplinary authority who on receipt of the same forwarded a copy to the worker with direction to submit his submission against the inquiry findings and the worker submitted his submissions to the disciplinary authority which was duly considered by the disciplinary authority. Thereafter the disciplinary authority issued a show cause notice to the worker proposing the punishment of compulsory retirement and after considering the reply and after providing him an opportunity of person hearing confirmed the proposed punishment upon the worker. Appeal against the same was also considered and rejected by the appellate authority. All the relevant dates have been mentioned in the facts stated by the worker as above.

7. Rejoinder statement has also been filed by the worker but nothing new has been pleaded therein.

8. Management vide list of document dated 11.05.11 has filed the entire documents relating to the present inquiry which have properly been considered by the tribunal while recording its finding on the fairness of the inquiry which was held to be just and fair by order dated 05.01.16.

9. From the charge sheet issued to the worker it appears that he was charged for using un-parliamentary words to the manager on 29.04.2003 and left the branch at 4.20 p.m. without permission and the manager marked it in the attendance register and this marking was un-authorizedly struck by the worker. Again on 10.05.03 worker has entered in the cabin of manager Sri K.N. Shanshi and suddenly snatched the register from and threw it in the corner of manager's cabin and shouted on him as to why Daftari allowance has not been paid to him. Thereafter he used abusive language in the presence of several customers of the branch and left the branch at 1.30 p.m without permission.

10. From perusal of record it appears that the worker remained absent in attending the proceedings of the case since 13.10.10 and as he did not attend the proceedings of this case for the several years preliminary issue regarding fairness of inquiry was framed by the tribunal on 5.5.15 and the said issue was decided by the tribunal vide order 05.01.16 after hearing arguments of management representative and it was held that the domestic inquiry conducted by the management was just and fair and in accordance with the principles of natural justice.

11. Thereafter final arguments on merit of the case were heard in which learned representative for the management advanced his agreement but none appeared on the date of final arguments from the side of the worker therefore, it could not be heard.
12. Now the tribunal in the facts and circumstances of the cases has to examine the findings of the enquiry officer as to whether the enquiry officer has recorded his findings after properly appreciating the evidence oral as well documentary adduced before him by the parties during the course of domestic inquiry and as to whether on the basis of the same the enquiry officer has been able to prove the charges against the worker levelled by the bank .
13. In the enquiry proceedings management has examined 4 witnesses M.W.1. K.R Verma, M.W.2. A.K. Singh, M.W.3 K.L. Shanshi and M.W.4 D.K. Jain. Defence representative for the worker has cross examined firstthree witnesses and did not cross examined M.W.4. Sri D K Jain.
14. Worker has not adduced any oral evidence in inquiry nor examined himself before the enquiry officer.
15. It also appears from the statement of the management witnesses recorded in the inquiry before the enquiry officer that all of them withone voice had supported the charges leveled against the worker and worker was not able to controvert them and did not adduce any evidence in his defence nor examined himself before the enquiry officer.
16. Therefore, considering the facts and circumstances of the case tribunal is of the opinion that the enquiry officer has adopted a fair and proper procedure in holding inquiry and he gave full opportunity to the worker to adduce his evidence but for the reasons best known to the worker he did not avail the opportunity given to him by the enquiry officer and didnot produced him to adduce any evidence in support of his defines.
17. By perusing the enquiry findings it also reveals that the enquiry officer after properly appreciating the evidence of the management has rightly concluded that the charge stands proved against the worker. It makes no difference if the signatory of the complaints were not examined as they according to the opinion of the tribunal under the facts and circumstances of the case were not relevant witnesses as the incident which is alleged to have been committed by the worker was directly related with the branch manager, therefore, it cannot be said that the enquiry findings suffers from infirmities as pleaded by the worker in his statement of claim.
18. It is also pertinent to mention here that all the management witnesses were properly cross-examined by the defence representative but from the evidence available on the domestic inquiry file tribunal is unable to conclude that the defence representative was able to show that the evidence of these witnesses is not reliable and as such cannot be accepted. As the tribunal is of the opinion that the enquiry officer after giving his anxious consideration to the facts and circumstances of the case as also to the material on record as also evidence available has rightly concluded that the charges levelled against the worker stands fully proved and as such it cannot be said that the findings of the enquiry officer suffers from infirmity or is against the principles of natural justice.
19. Held that the finding of the enquiry officer is just and fair and need not be interfered at the hands of the tribunal.
20. Next it will be examined whether punishment imposed upon the worker by the disciplinary on the proved misconduct is just and fair. From the records of the case it is quite evident that the disciplinary authority after receipt of the enquiry report provided a copy of the same to the worker and the same was also replied by him which but the disciplinary authority not concurring with the reply of the worker had imposed the punishment of compulsory retirement of the worker by order 11.10.04 and the appeal against the same also rejected by the appellate authority.
21. It also appears to the tribunal that considering the seriousness of the misconduct committed by the worker and which was found fully established against him, the disciplinary authority after taking a lenient view of the matter has simply inflicted punishment of compulsorily retirement upon the worker which under no circumstances can be said to be stigmatic and needs no interference under section 11-A of industrial disputes Act, 1947.
22. Having concluded that the charges stands proved against the worker which of serious nature by the enquiry officer and also that the disciplinary authority had also taken a lenient view in awarding punishment , the tribunal confirms the findings and punishment awarded to the worker by the management. As a result of the same worker is not entitled for any relief as claimed by him and it is held that action of the management of Canara bank in imposing punishment of compulsory retirement upon Sri Bhuri Singh vide order dated 11.10.04 is just and fair.
23. Reference is answered accordingly against the worker.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 20 जुलाई, 2017

का.आ. 1748.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पूर्व रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण

एवं श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 85/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.07.2017 को प्राप्त हुआ था।

[सं. एल-41011/9/2000-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 20th July, 2017

S.O. 1748.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 85/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of Eastern Railway and their workmen, received by the Central Government on 20.07.2017.

[No. L-41011/9/2000-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 85 OF 2000

PARTIES: The management of Railway Administration (Divisional Railway Manager,
Eastern Railway, Asansol Division, Asansol)

Vs.

Sri Debu Dom and 7 Others

REPRESENTATIVES:

For the management : Sri S. K. Paul, Chief Office Superintendent

For the union (Workman) : Sri Sayantan Mukherjee, Learned Advocate

Industry : Railway

State : West Bengal

Dated: 16.05.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **NO. L-41011/9/2000-IR(B-I)** dated 29/08/2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Railway Administration (herein Divisional Railway Manager, Eastern Railway, Asansol Division, Asansol) in denying absorption/regularization the services of Sri Debu Dom and 7 others from the date of their deployment by the G.R.P. as reflected in the individual Identity Card issued by them is legal, valid and justified? If not, what relief Sri Debu Dom and 7 others are entitled to?”

1. Having received the Order **NO. L-41011/9/2000 – IR(B-I)** dated 29/08/2000 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. **85 of 2000** was registered on 11.09.2000/31.10.2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

2. Case called out. Both parties are absent.

3. On perusal of the case record it is found that the case was fixed for filing evidence of the workman on 02.03.2016. Thereafter 6 dates were granted to the workman but to no effect. The workman's Advocate, Learned Sayantan Mukherjee endorsed on the order sheet on 07.03.2017 that he will not pray for any next date. But today he remained absent. This is a case of 17 years old and the workman unnecessary taking dates without any fruitful result. I

think the workmen are now not at all interested to proceed with the case further. I find no reason to keep this old record pending without any fruitful result.

4. As such the case is closed and accordingly a ‘No Dispute Award’ is hereby passed.

ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 20 जुलाई, 2017

का.आ. 1749.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईस्ट कोस्ट रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 20/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.07.2017 को प्राप्त हुआ था।

[सं. एल-41011/107/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 20th July, 2017

S.O. 1749.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of East Coast Railway and their workmen, received by the Central Government on 20.07.2017.

[No. L-41011/107/2012-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Shri B. C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 20/2013

Date of Passing Award – 2nd June, 2017

Between :

1. M/s. Aditya Associations,
At. Kusumati, Po. Jatni, Dist. Khurda,
2. Shri Dilip Kumar Jena,
Plot No. 287/02, Nandan Vihar, KIIT,
Bhubaneswar (Orissa) – 24.
3. Shri Pralip Kumar Mohanty,
Plot No. 2933, At. Gouri Nagar,
Lewis Road, Po. Old Town, Bhubaneswar-02.
4. M/s. Steel & Structure,
Block No. 302, Shree Jagannath Enclave,
Near Dammana Chhak, Chandrasekharpur,
Bhubaneswar (Orissa).
5. The Sr. Divisional Engineer (Estate),
E.Co. Rly, Khurda Road, Jatni

...1st Party-Managements

(And)

The President,
E.Co. Railway Thika Shramika Union,
AITUC, 32-156, Unit-IX, Road No. 2,
Bhubaneswar (Orissa) – 751 022

...2nd Party-Union

Appearances :

None	...	For the 1 st Party-Management 1 to 4
Shri R.N. Mahapatra	...	For the 1 st Party-Management No. 5
None	...	For the 2 nd Party-Union

AWARD

This award arises out of a reference with the schedule “Whether the action of the part of the old contractors namely Aditya Associates and Shri Dilip Kumar Jena working under the management of sr. DEN (Estate), E.Co. Rly, Khurda in not paying terminal benefits to 20 number of workmen (Shri Arati Nayak & 19 others) (list enclosed) and on the part of new contractors namely Shri Praliptha Ku. Mohanty and M/s. Steel structure (P) Ltd. Working under Sr. DEN (Estate) Khurda in not engaging the workmen in their ongoing works is legal and justified? If not, what relief the workmen are entitled to?” made by the Government of India, Ministry of Labour vide its letter No. L-41011/107/2012 – IR(B-I), dated 20.2.2013 in exercising its jurisdiction under section 10 of the I.D. Act (herein-after referred to as the “Act”) in the event of a dispute arose between the East Coast Railway Thika Shramika Union and the contractors of East Coast Railway.

2. Briefly stated, facts giving rise to the reference are that the Management No. 5 entered into an agreement and engaged Management No. 1 M/s. Aditya Associations under proprietorship of Shri Dilip Kumar Jena for maintenance of hospitality services in the officers rest house and subordinate rest house at Rail Vihar, Rail Kunj at Chandrasekharapur including cleaning of the entire building, approach road to the building, compound wall, internal and external items of the premises and providing round the clock utility service for taking care of the building. The disputant workman Shri Arati Nayak and others numbering 20 were engaged by the said Management No. 1 to execute the “contract work” awarded to the said Management in a tender process. The disputant workmen were working under the said contractor Shri Jena till December, 2011 where-after M/s. Steel & Structure Private Limited, Management No. 4 was given the work order for such maintenance of “hospitality services” in a tender process. It is the claim of the 2nd party-Union that the Contractor Dilip Kumar Jena being the head of the Management No. 4 had discontinued the services of the disputant workmen without compliance of notice pay and rehabilitation compensation and the new contractor M/s. Steel Structure (P) Limited has engaged his own labourers. It is the claim of the 2nd party-Union that the disputant workmen were not paid any terminal benefits as per the I.D. Act and as such a dispute was raised before the labour machinery. A conciliation was initiated by the Asst. Labour Commissioner (Central), Bhubaneswar and the same having been failed the dispute has been referred to this Tribunal for its adjudication. According to the 2nd party-Union the disputant shall be reinstated with all retrenchment benefits by the contractor Management No. 3 and the Management No. 5 shall give necessary direction in that regard.

3. Being noticed the railway management No. 5 made its appearance and filed its written statement denying its liability, whereas other Managements were set expte as they failed to make their appearance inspite of notices served on them. In its written statement the Management No. 5 has taken a stand that it had no role with the engagement/appointment of the disputant workmen by Management No. 1, M/s. Aditya Associates. The disputants are not its “workmen” as defined under section 2(s) of the I.D. Act and as such the reference is not maintainable against it. According to it the work of “hospitality service” was awarded to the Management No. 1 in the year 2011 in a tender process and the same work was given to Management No. 4 in the year 2012. Work orders were issued to those Managements on execution of agreements by them and as per the terms and conditions of the said agreement the Management and its contractors 1 to 4 are to take care of the maintenance of “hospitality service” as mentioned in supra and those Managements had engaged contract labourers for the purpose. As such, there is no relationship of “employer and employee” between it and the disputants and they are no way liable for removal of disputants in carrying out the work of cleaning and dusting.

4. On the pleadings of the parties issues given below were settled for just and proper adjudication of the dispute.

ISSUES

- Whether the action on the part of old contractors namely Aditya Associates and Shri Dilip Kumar Jena working under the management of Sr. DEN (Estate), E.Co. Rly, Khurda in not paying terminal benefits to 20 number of workmen Shri Arati Nayak & 19 others (list enclosed) and on the part of new contractors namely Shri Praliptha Ku. Mohanty and M/s. Steel Structure (P) Ltd., working under sr. DEN (Estate) Khurda in not engaging the workmen in their ongoing works is legal and justified

2. If not, what relief the workmen are entitled to?

5. As the 2nd Party-Union remained absent in the proceeding, the railway Management No. 5 was allowed to adduce its evidence. In support of its pleadings the Management has examined one of its officers as a witness and filed xerox copy of special condition contract (Part-II of Agent No. 02, dated 3.4.2012, copy of the payment of minimum wages by contractor Aditya Associates, copy of the payment of minimum wages by the contractor Praliptra Kumar Mohanty, copy of the Minimum wages paid by the contractor M/s. steel & Structure and copy of the payment of wages to the labourers engaged by the above three contractors which are marked as Ext.-A to E.

FINDINGS

6. The uncontroverted testimony of M.W.-1 and the documents relied upon by the Management No. 5 go to indicate that the work of maintenance of the “hospitality service” in the rest house of officers and in the rest house of subordinate staff was allotted to Management No. 1 M/s. Aditya Associates and Management No. 4 M/s. Steel & Structure on different periods and agreements were executed accordingly between the railway Management and with the contractors for the purpose. The disputants are not found to have been engaged by the railway Management No. 5 and there is nothing on the record to suggest or to hold that the disputants were ever engaged by the railway management directly or they were paid directly by the said Management to do the maintenance of “hospitality service”. Hence, the railway Management cannot be held responsible for lapses, if any, on the part of the contractors in refusing employment to the disputants. Further-more, it cannot be over-sighted that no evidence has been adduced on behalf of the disputants to establish that they had been ever engaged by the Contractor M/s. Aditya Associates and they worked under him for more than 240 days continuously and uninterruptedly in a twelve calendar months preceding to the alleged termination of service. Law is well settled that in order to declare the action of the Management illegal and unjustified in removing/terminating the service of workmen without providing him notice pay and retrenchment compensation, burden lies on the disputant workman to establish by clinching and credible evidence that he was employed by the Management and being employed he worked for him continuously and uninterruptedly for 240 days. The 2nd Party-Union having failed to establish the above pre-condition this Tribunal has no alternative than to reject the claim of the disputants.

7. The reference is answered accordingly.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 20 जुलाई, 2017

का.आ. 1750.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मंडल रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 16/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.07.2017 को प्राप्त हुआ था।

[सं. एल-41011/32/2015-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 20th July, 2017

S.O. 1750.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Divisional Railway and their workmen, received by the Central Government on 20.07.2017.

[No. L-41011/32/2015-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947

Reference No. 16/2015

Employers in relation to the management of Divisional Railway Sonapur Division

AND

Their workman

Present : Shri R.K. Saran, Presiding Officer**Appearances :**

For the Employers : None

For the workman : Shri D.K.Verma, Advocate

Industry : Railway

Dated : 19/06/2017

AWARD

By order no . L- 41011 /32/2015 /IR (B-I) dated 27/05/2015, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act , 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the action of the management of Divisional Railway Manager, Sonepur Division in terminating the service of Shri Vidya Sagar Thakur & others is legal and justified? If not, what relief the workman is entitled?”

ANNEXURE**List of workmen**

S.No	NAME	FATHER'S NAME	ADDRESS	DOB	WORK PLACE
1	Mahender	Moti	Vill+Post: Radhepur, Ps- Bhagalpur	31/12/57	Thana Vihpur Pwi/ Rwi
2	Vakil	Vikau	Village : Raghobpur,, Ps: Parvta , Dist- Bhagalpur	15/06/54	Thana Vihpur Pwi/ Rwi
3	Madho	Harish	Village : Raghobpur, Ps: Parvta , Dist- Bhagalpur	59 Years	Thana Vihpur Pwi/ Rwi
4	Mahesh	Bhim	Village : Raghobpur, Ps: Parvta , Dist- Bhagalpur		Thana Vihpur Pwi/ Rwi
5	Vakil	Maharaj	Village : Raghobpur, Ps: Parvta , Dist- Bhagalpur	05/03/56	Thana Vihpur Pwi/ Rwi
6	Adhik Lal	Bajrangi	Village : Raghobpur, Ps: Parvta , Dist- Bhagalpur	09/03/53	Thana Vihpur Pwi/ Rwi
7	Vinod	Jagarnath	Village : Raghobpur, Ps: Parvta , Dist- Bhagalpur	02/09/55	Thana Vihpur Pwi/ Rwi
8	Arjun	Jageshwar	Village : Raghobpur, Ps: Parvta , Dist- Bhagalpur	Nil	Thana Vihpur Pwi/ Rwi
9	Vindesvari	Bhurya	Village : Raghobpur, Ps: Parvta , Dist- Bhagalpur	01/08/60	Thana Vihpur Pwi/ Rwi
10	Bhola	Boudhi	Village : Raghobpur, Ps: Parvta , Dist- Bhagalpur	Nil	Thana Vihpur Pwi/ Rwi
11	Mahender	Bhim	Village : Raghobpur, Ps: Parvta , Dist- Bhagalpur	05/03/52	Thana Vihpur Pwi/ Rwi
12	Balaram	Choudhry	Village : Raghobpur, Ps: Parvta , Dist- Bhagalpur	27/01/56	Thana Vihpur Pwi/ Rwi
13	Manoj	Bachchi	Village : Raghobpur, Ps: Parvta , Dist- Bhagalpur	Nil	Thana Vihpur Pwi/ Rwi

14	Suresh	Bhim	Village : Raghapur, Ps: Parvta , Dist- Bhagalpur	Nil	Thana Vihpur Pwi/ Rwi
15	Niranjan	Shashi Bhushan	Village : Raghapur, Ps: Parvta , Dist- Bhagalpur	Nil	Thana Vihpur Pwi/ Rwi
16	Ramcharan Rajak	Bhumi Rajak	Village- Alalpur, Post- Raghapur,, Ps- Paravta, Dist- Bhagalpur	05/04/52	Thana Vihpur Pwi/ Rwi
17	Mohan	Raghu	Village-Bhatra , Post- Raghapur,, Ps- Parvta , Dist- Bhagalpur	10/05/58	Thana Vihpur Pwi/ Rwi
18	Suresh Mandal	Gujay Mandal	Village-Bhatra , Post- Raghapur,, Ps- Parvta , Dist- Bhagalpur	05/06/58	Thana Vihpur Pwi/ Rw
19	Jadu Mandal	Janki Mandal	Village-Bhatra , Post- Raghapur,, Ps- Parvta , Dist- Bhagalpur	05/02/56	Thana Vihpur Pwi/ Rw
20	Kanika	Janki	Village-Bhatra , Post- Raghapur,, Ps- Parvta , Dist- Bhagalpur	Nil	Thana Vihpur Pwi/ Rw
21	Dhaneshwar	Bhim	Village-Bhatra , Post- Raghapur,, Ps- Parvta , Dist- Bhagalpur	Nil	Thana Vihpur Pwi/ Rw
22	Rohin	Bhim	Village-Bhatra , Post- Raghapur,, Ps- Parvta , Dist- Bhagalpur	12/06/58	Thana Vihpur Pwi/ Rw
23	Nageshwar	Sukhay	Vill.- Faradpur,P.O- Raghapur,,Ps- Parvta,Dist- Bhagalpur	Nil	Thana Vihpur Pwi/ Rwi
24	Kailash Shah	Kanika Shah	Village-Jal Mandal Toal , Post- Sah Parbatta Ps- Islampur, Dist- Bhagalpur	Nil	Pwi/ Rwi
25	Dayanand	Dasu	Village-Jal Mandal Toal , Post- Sah Parbatta Ps- Islampur, Dist- Bhagalpur	Nil	Pwi/ Rwi
26	Naresh	Ajavlal	Village-Jal Mandal Toal , Post- Sah Parbatta Ps- Islampur, Dist- Bhagalpur	Nil	Thana Vihpur Pwi/ Rwi
27	Ram Khelawan	Premi	Village- Lodipur, Post- Athgama, Ps- Kharil, Dist- Bhagalpur	Nil	Pwi/ Rwi
28	Rampati Das	Jagrup Das	Village- Kherpur, Post- Athgama Ps- Kharil, Dist- Bhagalpur	Nil	Pwi/ Rwi
29	Chaddu Mandal	Dukkhku Mandal	Village+Post- Khairpur , Ps- Kharik , Dist- Bhagalpur	28/07/59	Pwi/ Rwi
30	Ramotat Bhagat	Bideshi Bhagat	Nil	Nil	Nil
31	Sitaram Bhagat	Bideshi Bhagat	Nil	Nil	Nil
32	Ganesh Mandal	Bharat Mandal	Village- Aashmanpur, Post- Lateepur , Dist- Bhagalpur	Nil	Pwi/ Rwi
33	Rajendra Thakur	Dhanik Thakur	Village+ Post- Lateepur , Post- Lateepur , Dist- Bhagalpur	02/07/47	Pwi/ Rwi
34	Brahmdev Singh	Hajari Singh	Village+Post- Lateepur , Dist- Bhagalpur	01/04/54	Pwi/Rwi
35	Naresh	Ashfi	Village+Post- Lateepur , Dist- Bhagalpur	11/07/52	Pwi/Rwi
36	Suresh	Sitaram	Village+Post- Lateepur , Dist- Bhagalpur	20/05/53	Pwi/Rwi
37	Vakil	Suresh	Village+Post- Lateepur , Dist- Bhagalpur	05/0759	Pwi/Rwi
38	Vinay Rajak	Bhikho Rajak	Village+Post- Lateepur , Dist- Bhagalpur	Nil	Pwi/Rwi

39	Sisavi Yadav	Sanichar Yadav	Village+Post- Lateepur , Dist- Bhagalpur	Nil	Pwi/Rwi
40	Moti Yadav	Rameshwar Yadav	Village+Post- Lateepur , Dist- Bhagalpur	Nil	Pwi/Rwi
41	Yogendar Mandal	Rameshwar Mandal	Village+Post- Lateepur , Dist- Bhagalpur	Nil	Pwi/Rwi
42	Fagu Yadav	Keshori Yadav	Village+Post- Lateepur , Dist- Bhagalpur	Nil	Pwi/Rwi
43	Jakir	Feku	Village- Bhagvatipur, Post- Lateepur, Thana- Viharpur, Dist- Bhagalpur	01/01/53	Pwi/ Rwi
44	Viro Yadav	Asharfi Yadav	Villate- Latipur, post- Lateepur , Thana – Viharpur , Dist- Bhagalpur	Nil	Pwi/ Rwi
45	Shuren Mandal	Ghamni Mandal	Village- Tighariya , Post- A G Bazar, Thana- Furshila , Dist- Katihar	Nil	Pwi/ Rwi
46	Mahendar Sharma	Baldev Sharma	Village- Meerachak, Post- Milki, Thana- Vihpur, Dist- Bhagalpur	Nil	Pwi/ Rwi
47	Satyug Sharma	Rooplal Sharma	Village- Meerachk , Post- Milki, Thana- Vihpur, Dist- Bhagalpur	Nil	Pwi/ Rwi
48	Ghuran	Doman	Village+Post+ Thana- Vihpur, Dist- Bhagalpur	Nil	
49	Sakal Dev	Mahaveer	Village+Post++Thanat – Vihpur, Dist- Bhagalpur	15/12/56	Pwi/ Rwi
50	Gaouri	Sidhoo	Village+ Post+Thana- Vihpur, Dist – Bhagalpur	Nil	Pwi/ Rwi
51	Domee	Natthan	Village+ Post+Thana- Vihpur, Dist – Bhagalpur	Nil	Pwi/ Rwi
52	Kirti	Kishun	Village+ Post+Thana- Vihpur, Dist – Bhagalpur	05/06/54	Pwi/ Rwi
53	Vindeshvari	Ghaneshwar	Village-Vihpur, Post- Vihpur, Dist- Bhagalpur	10/09/55	Pwi/ Rwi
54	Umakant	Mahadev	Village- Jamalpur, Post- Vihpur, Thana- Vihpur, Dist- Bhagalpur	01/01/49	Pwi/ Rwi
55	Shri Jaseem	Gamoo	Village- Jamalpur, Post- Vihpur, Thana- Vihpur, Dist- Bhagalpur	02/01/57	Pwi/ Rwi
57	Parmeshwar Das	Shiv Das	Village- Jamalpur, Post- Vihpur , Thana- Vihpur , Dist- Bhagalpur	Nil	Pwi/ Rwi
58	Pinkoo Yadav	Moti Yadav	Village- Lateepur , Post- Lateepur, Thana- Vihpur, Dist- Bhagalpur	Nil	Pwi/ Rwi
59	Babloo Mandal	Yogender Mandal	Village- Bhagwatipur , Post- Lateepur, Thana- Vihpur, Dist- Bhagalpur	Nil	Pwi/ Rwi
60	Kamleshvari Sharma	Anulal Sharma	Village- Marva , Post- Marva, Thana- Vihpur , Dist- Bhagalpur	22/03/51	Pwi/ Rwi
61	Lal Dev	Kartik	Village- Marva, Post- Marva , Thana- Vihpur , Dist- Bhagalpur	07/03/56	Pwi/ Rwi
62	Domi Paswan	Mahaveer Paswan	Village- Marva, Post- Marva, Thana- Vihpur, Dist- Bhagalpur	26/04/55	Pwi/Rwi
63	Tiro Sah	Arjun Sah	Village- Marva, Post- Marva Thana- Vihpur , Dist- Bhagalpurt	16/03/55	Pwi/ Rwi

64	Prakash Sah	Lakho Sah	Village- Marva , Post- Marva , Thana- Vihpur, Dist- Bhagalpur	16/03/55	Pwi/ Rwi
65	Baiku	Kartik	Village- Marva, Post- Marva , Thana- Vihpur, Dist- Bhagalpur	25/03/58	Pwi/ Rwi
66	Lakhan Lal Shah	Ajodhi Sah	Village- Marva , Post- Marva , Thana- Vihpur, Dist- Bhagalpur	22/03/56	Pwi/ Rwi
67	Narayan Choudhari	Ramdhari Choudhari	Village- Marva, Post- Marva , Thana- Vihpur, Dist- Bhagalpur	01/10/55	Pwi/ Rwi
68	Avadhi Sah	Kanti	Village- Marva , Post- Marva , Thana- Vihpur, Dist- Bhagalpur	02/01/59	Pwi/ Rwi
69	Surender Poddar	Jaldhari Poddar	Village- Marva, Post- Marva , Thana- Vihpur, Dist- Bhagalpur	21/05/58	Pwi/ Rwi
70	Nago	Sasti	Village- Marva , Post- Marva , Thana- Vihpur, Dist- Bhagalpur	02/01/55	r Pwi/ Rwi
71	Parshu Ram	Ayodhya	Village- Marva, Post- Marva , Thana- Vihpur, Dist- Bhagalpur	20/07/58	Pwi/ Rwi
72	Master Pagde	Naresh Pagde	Village- Marva , Post- Marva , Thana- Vihpur, Dist- Bhagalpur	08/01/58	Pwi/ Rwi
73	Uma Das	Doman Das	Village- Chhavni , Post- Naili, Thana- Neemchand Balan , Dist- Gaya	02/01/56	Pwi/ Rwi
74	Budho Sah	Tilu Sah	Village- Bithla , Post- Baisa , Thana- Parvata, Dist- Khagariya	Nil	Pwi/ Rwi
75	Shree Ram Khelavan	Bambahadur	Village- Bithla , Post- Choudhabani, Thana- Mansi, Dist- Khagariya	05/03/66	Pwi/ Rwi
76	Ganesh Sah	Raghu sah	Village+P.O +P.S Mahesh Khut , Dist- Khagariya	10/01/58	Pwi/ Rwi
77	Mahender Sah	Nirash Sah	Village- Kuraha, Post- Sahebpur Kalam , Thana- Sahebpur Kalam , Dist- Begusary	04/07/60	Pwi/ Rwi
78	Shree Rajendra	Ram Khelavan	Village- Kuraha, P.S+ P.O - Sahebpur Kalam , Dist- Begusary	04/07/60	Pwi/ Rwi
79	Vipin Mandal	Mahadev Mandal	Village- Kali Toli , Post- Paryarpur , Thana- Baryarpur, Dist- Munger	01/01/57	Pwi/ Rwi
80	Chaturi Mandal	Mahadev Mandal	Kali Toli, Post- Baryarpur, Thana- Baryarpur, Dist- Munger	14/02/55	Pwi/ Rwi
81	Shree Narayan Singh	Kali Singh	Village- Nipaniya, Post- Baranui P.S- Phool Variya, Dist- Begusary	01/02/57	Pwi/ Rwi
82	Pappu Mandal	Shankar Mandal	Village+P.O- Kolbhara , Thana- Parvta, Dist- Khagariya	05/12/58	Pwi/ Rwi
83	Vishun Dev	Har Govind	Village- Shahpur, Post- Narayan Pur, Thana- Vihpur, Dist- Bhagalpur	28/01/56	Pwi/ Rwi
84	Rajendra Das	Ram Khelavan Das	Vill – Shahpur , Post- Narayanpur Thana- Vihpur, Dist- Bhagalpur		Pwi/ Rwi
85	Ram Ratan Mandal	Bhola Mandal	Vill- Chkarami, Post- Narayanpur, Thana- Vihpur, Dist- Bhagalpur	16/03/54	Pwi/ Rwi
86	Upendra	Roop Narayan	Vill- Chkarami, Post- Narayanpur, Thana- Vihpur, Dist- Bhagalpur	09/05/57	Pwi/ Rwi
87	Chhote	Bhola	Vill- Chkarami, Post- Narayanpur, Thana- Vihpur, Dist- Bhagalpur	Nil	Pwi/ Rwi
88	Kailash	Jhari	Vill- Chkarami, Post- Narayanpur, Thana- Vihpur, Dist- Bhagalpur	06/03/54	Pwi/ Rwi

89	Kamal Kishor	Ajablal	Vill- Chkarami, Post- Narayanpur, Thana- Vihpur, Dist- Bhagalpur	01/01/57	Pwi/ Rwi
90	Vishun Dev	Bhola	Vill- Chkarami, Post- Narayanpur, Thana- Vihpur, Dist- Bhagalpur	24/12/57	Pwi/ Rwi
91	Soudagar	Bhagwat	Vill- Chkarami, Post- Narayanpur, Thana- Vihpur, Dist- Bhagalpur	12/02/58	Pwi/ Rwi
92	Phagu	Amnu	Vill- Chkarami, Post- Narayanpur, Thana- Vihpur, Dist- Bhagalpur	24/12/53	Pwi/ Rwi
93	Jaggarnath	Ramdev	Vill- Chkarami, Post- Narayanpur, Thana- Vihpur, Dist- Bhagalpur	05/03/59	Pwi/ Rwi
94	Chhote Lal	Rameshwar	Vill- Chkarami, Post- Narayanpur, Thana- Vihpur, Dist- Bhagalpur	Nil	Pwi/ Rwi
95	Jugeshwar Ram	Ishwar Ram	Vill- Chkarami, Post- Narayanpur, Thana- Vihpur, Dist- Bhagalpur	Nil	Pwi/ Rwi
96	Chhote Lal	Parmeshwar Paswan	Vill- Tavitoliya, Post- Narayan Pur, Thana-Vihpur, Dist- Bhagalpur	04/09/578	Pwi/ Rwi
97	Sankar Sharma	Gholat Sharma	Vill- Balaha, Post- Narayan Pur- Thana- Vihpur, Dist- Bhagalpur	Nil	Pwi/ Rwi
98	Sambhu Sharma	Gholat Sharma	Village- Balaha, P.O- Narayanpur, P.S- Vihpur, Dist- Bhagalpur	01/09/58	Pwi/ Rwi
99	Siyaram Sharma	Dhana Sharma	Village- Balaha, P.O- Narayanpur, Thana, Vihpur, Dist- Bhagalpur	01/09/59	Pwi/ Rwi
100	Vinod Sharma	Dhana Sharma	Village- Balaha, Post- Narayanpur, Thana, Vihpur, Dist- Bhagalpur	01/09/56	Pwi/ Rwi
101	Lakshmi Sharma	Sarbi Sharma	Village- Balaha, Post- Narayanpur, Thana, Vihpur, Dist- Bhagalpur	01/09/60	Pwi/ Rwi
102	Budhdev Singh	Birjee Singh	Village- Balaha, Post- Narayanpur, Thana, Vihpur, Dist- Bhagalpur	10/09/59	Pwi/ Rwi
103	Rajak	Liyakat	Village- Balaha, Post- Narayanpur, Thana, Vihpur, Dist- Bhagalpur	12/11/57	Pwi/ Rwi
104	Shankar	Uman	Village- Balaha, Post- Narayanpur, Thana, Vihpur, Dist- Bhagalpur	07/09/53	Pwi/ Rwi
105	Sunil	Lakhan Lal	Village- Balaha, Post- Narayanpur, Thana, Vihpur, Dist- Bhagalpur	12/12/58	Pwi/ Rwi
106	Vishnu Dev Singh	Rabvi Singh	Village- Balaha, Post- Narayanpur, Thana, Vihpur, Dist- Bhagalpur	05/10/54	Pwi/ Rwi
107	Upender Singh	Chotte Lal Singh	Village- Balaha, Post- Narayanpur, Thana, Vihpur, Dist- Bhagalpur	09/05/57	Pwi/ Rwi
108	Puroshotam Thakur	Soman Thakur	Village- Balaha, Post- Narayanpur, Thana, Vihpur, Dist- Bhagalpur	01/12/58	Pwi/ Rwi
109	Chaddoo	Ramvan	Village- Balaha, Post- Narayanpur, Thana, Vihpur, Dist- Bhagalpur	05/11/52	Pwi/ Rwi
110	Nageshvar Sah	Kutay Shah	Vill- Mojma, Post- Narayan Pur , Thana- Vihpur, Dist- Bhagalpur	Nil	Pwi/ Rwi
111	Gopi Das	Ramotar Das	Vill- Mojma, Post- Narayan Pur , Thana- Vihpur, Dist- Bhagalpur	04/01/57	Pwi/ Rwi
112	Madho	Kutay	Vill- Mojma, Post- Narayan Pur , Thana- Vihpur, Dist- Bhagalpur	18/11/76	Pwi/ Rwi
113	Pulish Paswan	Dahogi paswan	Vill- Mojma, Post- Narayan Pur , Thana- Vihpur, Dist- Bhagalpur	05/01/58	Pwi/ Rwi
114	Sita Ram Das	Kanik Das	Vill- Mojma, Post- Narayan Pur , Thana- Vihpur, Dist- Bhagalpur	10/09/56	Vihpur Pwi/ Rwi

115	Nepali Sah	Biro Sah	Vill- Mojma, Post- Narayan Pur , Thana- Vihpur, Dist- Bhagalpur	05/01/58	Vihpur Pwi/ Rwi
116	Mahesh Mandal	Laddu Mandal	Vill- Bhavani Pur, P.O-Narayanpur, Thana-Vihpur , Dist- Bhagalpur	Nil	Vihpur Pwi/ Rwi
117	Ajay Kumar Paswan	Madan Paswan	Vill- Gyan Das Tola , Thana- Gopal Pur, Dist- Bhagalpur	Nil	
118	Aman Misti	Saryug Misti	Vill- Kheriya, Post- Ayodhya Ganj Bazar,Thana- Kursila, Dist- Katihar	11/05/57	Kursila Pwi/ Rwi
119	Shyam Bihari	Ramvan	Vill- Gwal Toli, Post- Ayodhya Ganj Bazar , Thana- Kursila Disti Katihar	16/01/60	Kursila Pwi/ Rwis
120	Krishan Mohan	Sigeshvar	Vill- Balootola , Post- Ayodh Post- Ayodhya Ganj Bazar , Thana- Kursila Disti	15/07/59	Kursila Pwi/ Rwi
121	Sitaram Mandal	Narayan Mandal	Vill- Kheriya , Post- Ayodhya Ganj Bazar , Than- Kursila , Dist- Katihar	06/02/56	Kursila Pwi/ Rwi
122	Suresh Mandal	Narayan Mandal	Vill- Kheriya Mandal Tola, Post- Ayodhya Ganj Bazar, Thana- Kursila , Dist- Katihar	08/11/70	Kursila Pwi/ Rwi
123	Narayan	Lalit	Vill- Kheriya , Post- Ayodhya Ganj Bazar, Thana- Kursila, Dist- Katihar,	05/07/48	Kursila Pwi/ Rwis
124	Jagdish Mandal	Baleshvar Mandalk	Vill- Kheriya , Post- Ayodhya Ganj Bazar, Thana- Kursila, Dist- Katihar	15/01/58	Kursila Pwi/ Rwi
125	Mahendra	Bauku	Vill- Rangra , Post- Rangra , Thana- Gopal Pur, Dist- Gopal Pur	16/04/48	Kursila Pwi/ Rwi
126	Parthvi Mandal	Parmeshwar Mandal	Vill- Rangra, Post- Rangra , Thana- Gopalpur Dist- Bhagalpur	01/01/38	Kursila Pwi/ Rwi
127	Shiv Charan	Bhagavan	Vill- Rangra , Post- Rangra, Thana- Gopal Pur, Dist- Bhagalpur	16/04/48	Kursila Pwi/ Rwi
128	Bhvani	Musharu Das	Vill- Rangra , Post- Rangra , Thana- Gopal Pur, Dist- Bhagalpur	16/04/48	Kursila Pwi/ Rwi
129	Bihari	Sttan	Vill- Rangra , Post- Rangra , Jthana – Gopalpur, , Dist- Bhagalpur	16/04/48	Kursila Pwi/ Rwi
130	Pradeep	Sukdev	Vill- Rangra , Post- Rangra , Thana- Gopal Pur, Dist- Bhagalpur	16/04/48	Kursila Pwi/ Rwi
131	Banshi Mandal	Bhumi Mandal	Vill- Rangra , Post- Rangra , Jthana – Gopalpur, , Dist- Bhagalpur	02/09/88	Kursila Pwi/ Rwi
132	Sigesh War Mandal	Madari Mandal	Vill- Rangra , Post- Rangra , Thana- Gopal Pur, Dist- Bhagalpur	Nil	Kursila Pwi/ Rwi
133	Hari mandal	Darogi Mandal	Vill- Rangra , Post- Rangra , Jthana – Gopalpur, , Dist- Bhagalpur	Nil	Kursila Pwi/ Rwi
134	Deep Narayan Paswan	Ram Sai Paswan	Vill- Rangra , Post- Rangra , Thana- Gopal Pur, Dist- Bhagalpur	15/07/48	Kursila Pwi/ Rwi
135	Tarni Mandal	Kashi Mandal	Vill- Bhimdas Tola , Post- Rangra , Thana- Gopal Pur , Dist- Bhagalpur	05/12/88	Kursila Pwi/ Rwi
136	Polo Paswan	Dhanni Paswan	Vill- Bhimdas Tola, Post- Rangra, Thana- Gopal Pur , Dist- Bhagalpur	Nil	Kursila Pwi/ Rwi
137	Upendar Sharma	Aman Misti	Vill- Kheriya Mandal Tola, Thana- Kurshil, Dist- Kurshila		

138	Bhushan	Tetar Mandal	Vill- Sadhua , Post- Sadhua, Thana- Goplapur, Dist- Bhagalpur	31/12/86	Kursila Pwi/ Rwi
139	Jay Prakash	Father- Visheshwar	Vill- Sadhua Post- Sadhua, Thana- Goplapur , Dist- Bhagalpur	05/12/60	Kursila Pwi/ Rwi
140	Ganesh	Chitranjan	Vill- Sadhua , Pst- Sadhua, Thana- Goplapur, Dist- Bhagalpur	15/07/60	Kursila Pwi/ Rwi
141	Tarni Thakur	Nago Thakur	Vill- Sadhua , Post- Sadhua , Thana , Goplapur, Dist- Bhagalpur	01/10/52	Kursila Pwi/ Rwi
142	Neva Ji Mandal	Thorma	Vill- Sadhua, Post- Sadhua , Thana- Goplapur, Dist- Bhagalpur	10/03/51	Kursila Pwi/ Rwi
143	Subhash Thakur	Kamleshwari Thakur	Vill- Sadhua , Post- Sadhua , Thana- Goplapur, - Dist- Bhagalpur	01/10/61	Kursila Pwi/ Rwi
144	Saryug	Thoray	Vill- Sadhua, Post- Sadhua, Thana- Goplapur, Ist- Bhagalpur	Nil	Kursila Pwi/ Rwi
145	Sudeen	Ameed	Vill- Sadhua , Post- Sadhua, Thana- Goplapur, Dist- Bhagalpur	20/08/60	Kursila Pwi/ Rwi
146	Jagdish Tatya	Bhakuni Tatya,	Vill- Rangra, Post- Rangra ,Thana- Goplapur, Dist- Bhagalpur	01/01/55	Kursila Pwi/ Rwi
147	Brahmdev Mandal	Baunki Mandal	Vill- Rangra , Post- Rangra , Thana- Goplapur, Dist- Bhagalpur	05/12/88	Kursila Pwi/ Rwi
148	Chhotu Mandal	Lalji Mandal	Vill- Barialalpur , Post- Nil, Thana- Sahu Pur Parvatta	01/02/78	Kursila Pwi/ Rwi
149	Cheto Mandal	Shivchu Mandal	Village- Ragra , Ps- Ragra , Thana- Gopalpur, Dist- Bhagalpur	05/02/88	Kursila Pwi/ Rwi
150	Sangeeta Kumar	Sikander Mandal	Vill- Purani Emarpur, Post- Purni Emapur , Thana- Barari , Dist- Katihar	Nil	Kursila Pwi/ Rwi
151	Madan Sharma	Kunnil Sharma	Vill- Habibpur, Post- Habibpur Dist- Bhagalpur	15/05/66	Kursila Pwi/ Rwi
152	Rakesh Paswan	Naresh Paswan	Vill- Saudbharat Khan , Post- Saudbharat Khand , Post-	Nil	
153	Arun Paswan	Jagdev Paswan	Vill- Lohvi, Post- Pothiya, Thana- Falka , Dist- Katihar	Nil	
154	Mahender Mahaldar	Parmeshwar Mahaldar	Vill- Magheli, Post- Jarlahi, Thana- Barari	01/01/48	Kursila Pwi/ Rwi
155	Jagdish Mandal	Badri Mandal	Village- Magheli, Post- Jarlahi, Thana- Barari, Dist- Katihar,	05/10/54	Kursila Pwi/ Rwi
156	Sangam Kumari	Sikander Mandal	Vill- Purani Somapur , Post- Somapur, P.S-Barari, Dist- Katihar	Nil	
157	Prasadi Mandal	Baishakhi Mandal	Vill- Magheli, Post- Jarlahi, Thana- Barari, Dist- Katihar	16/03/83	Kursila Pwi/ Rwis
158	Kaushal Kumar Singh	Jitender Prasad Singh	Vill+ P.O- Nagar Harail, Thana- Mo- Nagar , Dist- Samastipur,	Nil	Kursila Pwi/ Rwi
159	Sakuntala Kumari	Narayan Sharma	Vill- Chakrami, Post- Narayanpur, Thana- Vihpur , Dist- Bhagalpur	Nil	
160	Dinesh Mahaldar	Bishan Mahaldar	Vill- Magheli, Post- Jarlahi- Thana- Barari, Dist- Katihar	01/01/57	Kursila Pwi/ Rwi
161	Rahul Kumar	Yogendra Mandal	Vill- Nagar Simra, Post- Simra , Thana- Tikapatti, Dist- Purniya	Nil	Kursila Pwi/ Rwi

162	Chandan Kumar Choudhari	Banarsi Choudhari	Vill- Khediya Math Tola, Post- A.G. Bazar, Thana—Kurshila Dist- Katihar	Nil	Kursila Pwi/ Rwi
163	Manoj Kumar	Sahdev Sharma	Vill- Eatvariha, P.O Mirajanahar, Thana- Habibpur, Dist- Bhagalpur	Nil	
164	Ritesh Kumar	Kishun Mandal	Vill- Thaudvar, Post- Sahjadpur, Thana- Habibpur, Dist- Bhagalpur	Nil	Kursila Pwi/ Rwi
165	Gautam Paswan	Jitendra Paswan	Kheriya Manda Post- A.G. Bazar , Thana- Kurshila , Dist- Katihar	Nil	Kursila Pwi/ Rwis
166	Mannu Yadav	Makhru Yadav	Magheli , Post- Jarlahi , Thana- Barari , Dist- Katihar	05/12/58	Kursila Pwi/ Rwis
167	Jitender Kumar Sharma	Jay Prakash Sharma	Vill- Simraha, Post- Dalan , Thana- Chandaramachouk, Dist- Katihar	Nil	Kursila Pwi/ Rwi
168	Nitya Nand Mandal	Jalo Mandal	Vill- Kheriya Mandal Tola , Post- Ayodhya Ganj Bazar , Thana- Kurshila, Dist- Katihar	Nil	Kursila Pwi/ Rwi
169	Suresh Paswan	Pritvi Chand Paswan	Village- Madhubani, Post- Somapur , Thana- Barari , Dist- Katihar	07/01/57	Kursila Pwi/ Rwi
170	Dayandand Mandal	Bhola Mandal	Vill- Kheriya Mandal , Post- Ayodhya Ganj Bazar , Thana- Kurshila, Dist- Katihar	Nil	Kursila wi/ Rwis
171	Rajesh Kumar	Sankar Mandal	Vill- Kheriya Mandal Tola , Post- Ayodhya Ganj Bazar Than- Kurshila Dist- Katihar	Nil	Kursila Pwi/ Rwi
172	Parmanand Mandal	Jalp Mandal	Vill- Lakshmi Pur Chhadda Patti , Post- Doma, Thana- Rupauli, Dist- Purniya	Nil	Kursila Pwi/ Rwi
173	Ghanshyam Mandal	Manikalam Mandal	Vill- Kheriya Mandal Tola		Kursila Pwi/ Rwi
174	Rajesh Kumar Mandal	Doman Mandal	Vill- Kheriya Mandal Tola , Post- Ayodhya Ganj Bazar , Thana- Kurshila , Dist- Katihar	Nil	Kursila Pwi/ Rwi
175	Jagdish Thakur	Santoki Thakur	Vill- Durgapur, Post- Somapur , Thana- Barari, Dist- Katihar	Nil	Kursila Pwi/ Rwi
176	Manoj Kumar Sharma	Dinesh Sharma	Vill+P.O-Tetari Pakra , Thana- Naugaghiya , Dist- Bhagalpur		Kursila Pwi/ Rwi
177	Huleshwar Mandal	Suryanarayan Mandal	Vill- Gunjra, Post- Bihanpur, Thana- Barari, Dist- Katihar		Kursila Pwi/ Rwis
178	Litar Mandal	Kishan Mandal	Vill- Magheli , Post- Jarlahi, Thana- Barari, Dist- Katihar	Nil	Kursila Pwi/ Rwis
179	Sunil Paswan	Ram Vilash Paswan	Vill- Chhaddapatti , Post- Doma, Thana- Tikapatti, Dist- Purniya	Nil	Kursila Pwi/ Rwis
180	Anandi Mandal	Raghunath Mandal ,	Vill- Prajeli , Post- Sompur , Thana- Barari, Dist- Katihar	01/06/48	Kursila Pwi/ Rwis
181	Kumar Anand Paswan	Jitender Paswan	Vill- Kheriya Mandal Tola , Post- Ayodhya Ganj Bazar , Thana- Kurshila, Dist- Katihar	Nil	Kursila Pwi/ Rwis
182	Shaukat Ali	Ulfat Miya	Sakreli Rain , Post- Sompur, Thana- Barari , Dist- Katihar	01/02/78	Kursila Pwi/ Rwis
183	Narayan	Jagdev Paswan	Vill+P.O Rauniya , Thana- Barari, Dist- Katihar	17/03/55	Kursila Pwi/ Rwis

184	Rameshwar	Sand	Vill- Rauniya, Post- Rauniya , Thana- Barari , Dist- Katihar	08/11/70	Kursila Pwi/ Rwi
185	Mahipal	Lalaji	Village- Rauniya , Post- Rauniya , Thana- Barari , Dist- Katihar ,	05/12/88	Kursila Pwi/ Rwis
186	Dina ,	Baunoo	Village- Rauniya , Post- Rauniya, Thana- Barari, Dist- Katihar	09/10/77	Kursila Pwi/ Rwis
187	Vindeshwar ,	Ajay Lal	Vill- Rauniya , Post- Rauniya , Thana- Barari , Dist- Katihar	Nil	Kursila Pwi/ Rwi
188	Ramchandra	Nagendra	Village- Rauniya , Post- Rauniya , Thana- , Dist- Katihar	28/02/56	Kursila Pwi/ Rwi
189	Bhumeshwar	Madho	Vill- Rauniya, Post- Rauniya , Thana- Barari, Dist- Katihar	05/12/88	Kursila Pwi/ Rwi
190	Manikchand ,	Panchu	Vill- Rauniya, Post- Rauniya, Thana- Barari J, Dist- Katihar,	08/11/70	Kursila Pwi/ Rwi
191	Rajendar	Shyamalal	Vill- Rauniya, Post- Rauniya, Thana- Barari, Dist- Katihar	2/09/88	Kursila Pwi/ Rwi
192	Tarani	Madani	Vill- Rauniya, Post- Rauniya , Thana- Barari, Dist- Katihar	09/10/77	Kursila Pwi/ Rwis
193	Lakahan	Gujay	Vill- Rauniya , Post- Rauniya , Thana- Barari, Dist- Katihar	06/07/88	Kursila Pwi/ Rwi
194	Mohan	Bangali	Vill- Rauniya, Post- Rauniya , Thana- Barari , Dist- Katihar	05/12/88	Kursila Pwi/ Rwis
195	Shiv Narayan Samphul	Samphul	Vill- Rauniya J, Post- Rauniya, Thana- Barari, Dist- Katihar,	15/10/87	Kursila Pwi/ Rwi
196	Shiv Narayan	Jagdev	Vill-Rauniya, Post- Rauniya , Thana- Barari, Dist- Katihar ,	17/03/55	Kursila Pwi/ Rwis
197	Prashadi Thakur	Santoshi Thakur	Vill- Durgapur, Post- Sompur, Thana- Barari, Dist- Katihar	02/09/88	Kursila Pwi/ Rwi
198	Pankaj Kumar Mandal	Huleshwat Mandal ,	Vill- Gunjara, Post- Vishanpur, Thana- Barari, Dist- Katihar,	Nil	Kursila Pwi/ Rwi
199	Manoj Kumar	Jagdambi Mandal	Vill- Mona Bhagwanpur, Post- +P.S Rupauli , Dist- Purniya,	Nil	Kursila Pwi/ Rwis
200	Basudev Mandal	Jhalli Mandal	Vill- Teen Dhariya , Post- Ayodhya Gan Bazar, Dist- Katihar,	08/08/58	Kursila Pwi/ Rwi
201	Raj Kumar	Jhote Ram	Vill- Purani Bazar , Post- Ayodhya , Gan Bazar, Dist- Katihar,	Nil	Kursila Pwi/ Rwi
202	Shiv Shankar Sharma	Kunni Lal Sharma	Vill- Habibpur , Dist- Bhagalpur	Nil	Kursila Pwi/ Rwi
203	Rajendar	Ram Jee	Vill- Malurapur , Post- Lakhminiya, Thana- Baliya, Dist- Begusaray,	01/01/62	Lakhminiya Pwi/ Rwi
204	Visho Tati	Jhari Tati	Vill.- Choti Baliya,PO- Lakhminiya, PS- Baliya , Dist- Begusaray	01/01/95	Lakhminiya Pwi/ Rwi
205	Ram Dev Tati	Janak	Malurapur, Post- Lakhminiya, Thana- Baliya, Dist- Begusaray	21/05/49	Lakhminiya Pwi/ Rwi
206	Hare Ram Choudhary	Ram Sahay Choudhary	Vill- Malurapur ,P.O- Lakhminiya, Thana- Baliya , Dist- Begusaray	01/01/61	Lakhminiya Pwi/ Rwi
207	Raghunath Ram	Jago Ram	Vill- MaluraPur,P.O- Lakhminiya , Thana- Baliya, Dist- Begusaray	01/07/57	
208	Ram Gyan Kumar	Sita Ram Tati	Vill- Katarmala , Post- Katarmala , Thana- Seemachandpur , Dist- Begusaray,	Nil	Lakhminiya Pwi/ Pwi

209	Paddu	Virechee ,	Malurapur, Post- Lakhmaniya, Thana- Baliya, Dist- Begusaray,	01/05/53	Lakhminiya Pwi/ Rwi
210	Raju Shah	Baso Sah	Vill- Danauli, Post- Phool Wariya , Thana- Baliya, Dist- Begusaray	01/01/79	Lakhminiya Pwi/ Rwi
211	Ram Ji ,	Baldev	Vill- Danauli , Post- Phoolwariya, Thana- Baliya , Dist- Begusaray	01/01/70	Lakhminiya Pwi/ Rwi
212	Shaligram	Banarshi,	Vill- Danauli , Post- Phoolwariya, Thana- Baliya, Dist- Begusaray	01/07/57	Khagariya Pwi/ Rwi
213	Bindeshvari	Kari	Vill- Malurapur , Post- Lakhmaniya , Thana- Baliya , Dist- Begusaray	01/01/46	Lakhminiya Pwi/ Rwi
214	Jago Sah	Bhalo Sah	Vill- Choti Baliya Sadan Chouk , Post- Lakhmaniya , Thana- Baliya , Dist- Begusaray	20/08/49	Khagariya Pwi/ Rwi
215	Ram Narayan	Kalaghar	Vill- Rahua , Post- Sahebpur Kalam , Thana- Sahebpur Kalam , Dist- Begusaray	02/04/55	Lakhminiya Pwi/ Rwi
216	Nago Sah	Balo Sah	Vill- Chiti Baliya Sadan Chouk , Post- Lakhmaniya , Thana- Baliya, Dist- Begusaray	01/02/78	Khagariya Pwi/ Rwi
217	Sakal Dev Yadav	Kuldeep Yadav	Seeta Kunddih , Post- Dariyapur, Thana- Mufsil Town, Dist- Munger	25/12/58	Lakhminiya Pwi/ Rwi
218	Md. Ishrail	Gulam Sool	Vill- Chiti Baliya Sadan Chouk , Post- Lakhmaniya , Thana- Baliya, Dist- Begusaray,	25/12/58	Khagariya Pwi/ Rwi
219	Bhagwan Pandit	Ramcharan Pandit	Vill-Choti Baliya Sadan Chouk , Post-Lakhminiya, Thana- Baliya, Dist- Begusaray	01/01/57	Lakhminiya Pwi/ Rwi
220	Ashok Mandal,	Chalitar Mandal	Vill- Indragram , Post- A.G. Bazar , Thana- Kurshila, Dist- Katihar,	Nil	Khagariya Pwi/ Rwi
221	Netlal Mahto	Makhoran Mahto	Vill- Amarpur Vind Tola , Post- Amarpur, Thana- Barauni , Dist- Begusari	13/04/55	Barauni Pwi/ Rwi
222	Indra Dev Mahto	Dulo Mahto	Vill- Amarpur Vind Tola , Post- Amarpur , Thana- Barauni, Dist- Begusarai ,	13/04/55	Barauni Pwi/ Rwi
223	Ramanand Singh	Ram Padam Singh	Vill- Gadhara , Post- Gadhara , Thana- Barauni, Dist- Begusarai ,	01/08/89	Barauni Pwi/ Rwi
224	Ashok Pathak,	Bhola Pathak	Vill- Keel Gathara , Post- Gadhara , Thana- Barauni, Dist- Begusarai,	20/12/55	Barauni Pwi/ Rwi
225	Ram Pravesh Sah ,	Podar Sah	Vill- Roopnagar, Post- Simariya Ghat , Thana- Barauni, Dist- Begusarai	Nil	Barauni Pwi/ Rwi
226	Arjun Mahto	Vino Mahto	Vill-Simariya , Post- Simariya, Thana- Barauni, Dist- Begusarai,	06/03/63	Barauni Pwi/ Rwi
227	Raj Kumar Ray	Meru Ray	Vill- Simariya, Post- Simariya, Thana- Barauni , Dist- Begusarai,	05/10/56	Barauni Pwi/ Rwi
228	Prem Kumar	Vishvanath Singh	Vill- Roopnagar , Post- Simariya Ghat , Thana- Barauni, Dist- Begusarai,	10/10/57	Barauni Pwi/ Rwi
229	Nageshvar Sah ,	Mahendra Sah,	Vill- Roopnagar, Post- Simariya Ghat , Thana- Barauni, Dist- Begusarai	Nil	Barauni Pwi/ Rwi

230	Tuntun Singh	Ramotar Singh	Vill- Simariya , Post- Simariya, Thana- Barauni, Dist- Begusarai	18/07/56	Barauni Pwi/Rwi
231	Ramotar Paswan	Lakhan Paswan	Vill- Bara , Post- Badharab , Thana- Barauni, Dist- Begusarai,	26/03/57	Barauni Pwi/Rwi
232	Dularchand	Dhanik	Vill- Bara , Post- Badharab , Thana- Barauni, Dist- Begusarai	15/07/53	Barauni Pwi/Rwi
233	Bimal Ram	Meru Ram	Vill-+Post- Simariya, Thana- Barauni, Dist- Begusarai,	05/01/56	Barauni Pwi/Rwi
234	Dashrath Ram	Botal Ray	Vill- Simariya, Post- Simariya, Thana- Barauni , Dist- Begusarai	18/01/56	Barauni Pwi/Rwi
235	Shivdani Ray	Bacchi Ray	Vill- Roop Nagar , Post- Simariya Ghat- Than- Barauni, Dist- Begusari	01/01/56	Barauni Pwi/Rwi
236	Ram Babu	Ram Janam Ray	Vill- Sabbalpur Nagar, Pakhet Tola, P.O-+P.S- Sonpur, Dist- Chhapra	03/03/57	Sonpur Pwi/Rwi
237	Ram Narayan Ray	Lal Bihari Ray ,	Vill- Sabbalpur, Post- Nayatoal , Thana- Sonpur, Dist- Saran+ Chhpra	01/10/57	Sonpur Pwi/Rwi
238	Yogendra Prasad Yadav	Sri Devki Ray	Vill- Chaharam , Post- Sonpur, Thana- Sonpur, Dist- Saran	08/01/58	Sonpur Pwi/Rwi
239	Ram Janam Das	Banarasi Das	Vill- Dughola , Post- Sonpur Thana- Sonpur , Dist- Saran	06/01/55	Sonpur Pwi/Rwi
240	Ram Janam Das	Banarasi Das	Dughola , Post- Sonpur, Thana- Sonpur , Dist- Saran	20/12/57	Sonpur Pwi/Rwi
241	Mathura Thakur	Mahadev Thakur	Vill- Baboor Banni , Post- Sonpur, Thana- Sonpur, Dist- Saran	01/09/55	Sonpur Pwi/Rwi
242	Birendra Kumar Ray	Khublal Ray	Vill- Rahar Dhiyar, P.O+ P.S Sonpur, Dist- Saran	01/12/62	Sonpur Pwi/Rwi
243	Akalesh Singh	Yadubanshi Singh	Vill- Jahangirpur, Post- Sonpur, Thana- Sonpur, Dist- Saran	27/01/61	Sonpur Pwi/Rwi
244	Santlal Das	Ram Vilas Das	Vill- Jahangirpur, Post- Sonpur, Thana- Sonpur,	03/02/57	Sonpur Pwi/Rwi
245	Siyaram Bhagat	Munnu Bhagat	Vill- Chandralay, Post- Hajipur, Sadar, Dist- Vaisali	08/05/57	Sonpur Pwi/Rwi
246	Chandi karam	Bijaghar Ram	Vill- Sanpur, Post- Sonpurj, Thana- Dariyapur, Dist- Saran	01/12/57	Sonpur Pwi/Rwi
247	Lakshman Yadav	Lagal Ray	Vill- Sikarpur, Post- Sonpur, Dist- Saran	01/01/59	Sonpur Pwi/Rwi
248	Kalbir Mahto	Lakhan Mahto	Vill- Makdumpur, Post- Sonpur, Dist- Saran,		Sonpur Pwi/Rwi
249	Satendar Nath Dube	Sibnath Dubey	Vill- Dughela Jayetiya , Post- Sonpur, Dist- Saran	27/01/58	Sonpur Pwi/Rwi
250	Omprakash	Janaradan Sharma	Vill- Jahangirpur, Post- Sonpur, Dist- Saran	01/04/58	Sonpur Pwi/Rwi
251	Mathura Mahato Mahto	Punit Mahto	Vill- Kharika Post- Sonpur, Dist- Saran	01/09/57	Sonpur Pwi/Rwi
252	Ramji Prasad	Nithal Prasad	Vill- Kharika, Post- Sonpur, Dist- Saran	05/01/58	Sonpur Pwi/Rwi
253	Rameshwar Ray	Sital Ray	Vill- Sabalpur, Post- Chahram, Dist- Saran	15/08/58	Sonpur Pwi/Rwi
254	Bhagwan Manjhi	Kishan Manjhi	Vill- Sahpur, Post- Sonpur, Dist- Saran	03/02/56	Sonpur Pwi/Rwi

255	Ramayan Hajra	Kashi Hajra	Vill- Sahnpur, P.O- Sonpur, Dist- Saran	12/09/54	Sonpur Pwi/Rwi
256	Gopal Sah	Chhabil Sah	Paharichak Praveskhad , Post- Sonpur, Dist- Saran	01/01/55	Sonpur Pwi/Rwi
257	Suresh Prasad	Jamuna Prasad	Vill- Paharichak, Post- Sonpur, Dist- Saran	01/01/57	Sonpur Pwi/Rwi
258	Vinod Ram	Pralad Ram	Vill- Sodpur, Po- Sodpur, Digvara, PS- Digvara, Dist- Saran(Chhapra)	17/12/58	Sonpur Pwi/Rwi
259	Vidyasagar	Ramdev Thakur	Vill-Roopnagar.PS-Simariyaghat, Thana- Barauni, Dist- Begusarai,	12/01/57	Sonpur Pwi/Rwi
260	Promod Kumar Singh	Mudrika Singh	Vill- Ghanghua , Post- Pandaha, Dist- Vaishali,	19/11/62	Sonpur Pwi/Rwi
261	Vishvanath Ray	Gorakh Ray,	Vill- Paharichak, Post- Sonpur, Dist- Saran	10/10/63	Sonpur Vidhut Pwi/Rwi
262	Durga Ram	Raja Ram	Vill- Phursatpur , Post- Suthar PS- Gorjibazar, Dist- Saran (Chhapra)	02/03/64	Sonpur Vidhut Pwi/Rwi
263	Fajinder Nath Sharma	Hariyar Sharma	Vill- Premganj , Post- Lalganj , Dist- Vaishali,	14/01/64	SonpurVidhut Pwi/Rwi
264	Upendernath Pandey	Ramnandan Pandey	Vill- Daishri, Post- Daishri, Dist- Vaishali	05/10/61	Sonpur Vidhut Pwi/Rwi
265	Mohammad Yusuf Mansoori	Md. Ishmail	Vill- Tangoulsanchi Patti, Post- Hajipur, Dist- Vaishali	11/11/83	Sonpur Vidhut Pwi/Rwi
266	Kishundev Paswan,	Ateru Paswan	Vill- Chirangeevipur, Post- Fatiha , Dist-Begusarai,	01/01/57	Sonpur Vidhut Pwi/Rwi
267	Kamleshwar Singh	Ram Bahadur Singh,	Vill- Kharaiika , Post- Khraika, Dist- Vaisali,	08/08/62	Sonpur Vidhut Pwi/Rwi
268	Janki	Dhaneek	Vill- Varo, Post- Varo, Thana- Varouni, Dist- Begusarai	01/01/55	Barauni Pwi/ Rwi
269	Ramagya	Chandrika Singh	Vill.-Kilgarhghara,PO- Garhghara, PS- Barauni, Dist- Begusarai	01/01/42	Barauni Pwi/ Rwi
270	Sitaram Sah	Phoolchan Sah	Vill- Kilgarhghara , Thana- Begusarai,	01/01/55	Barauni Pwi/ Rwi
271	Jaynarayan Sharma	Vishundev Sharma	Vill-Baso Rampur Tola, PO- Baso, PS-- Phoolvariya , Dist- Begusarai	1959	Barauni Pwi/ Rwi
272	Vidhya Sagar	Ram Khelawan	Vill- Baro, Post- Baro , Thana, Barauni, Dist- Begusarai	01/01/55	Barauni Pwi/ Rwi
273	Sone Lal	Paddu	Vill- Garhhara, Post- Garhara, Thana- Barauni, Dist- Begusarai	12/02/52	Barauni Pwi/ Rwi
274	Ashok Kumar Ray	Sri Rudal Roy	Vill- Pahleja, P.O+P.S - Sonpur, Dist- Saran	10/04/57	Barauni Pwi/ Rwi

2. The case is received from Ministry of Labour on 05.06.2015. After receipt of the reference, both parties are noticed.. But the management neither appear nor files any written statement, But the workman files written statement on 17.06.2015, thereafter issue reminder notices, thereafter the management appears and files only letter of authority and received the copy of written statement of workman. But thereafter the management neither appear nor files any written statement. Case proceeds ex-parte hearing. One witness adduced on behalf of workman and documents of workman marked as W-1 to M-9.

3. The case of the Sponsoring Union/workmen is that Sri Vidya Sagar Thakur and 274 other were working under the management of Sonapur Division of Indian Railway as Badli workmen since 1970 and they were continuously worked in different department and different station of Sonapur Division Indian Railway . The management issued them identity Card which is called as Lal Card to the workmen concerned and since the appointment, the workmen concerned were worked continuously without any break till 1990.

4. It is further submitted by the Sponsoring Union that the management prescribed a rule for regularisation of the services of Badli and casual workmen. According to the aforesaid rules of the railway, the workmen concerned were entitled for regularisation as permanent workmen as soon as they have completed 120 days attendance in a year. The Badli workmen are required to report for duty every day.

5. The Badli workmen were engaged intermittently by the management according to the requirement, therefore according to the Rules the period of disengagement will be not treated as break in service.

6. It is further submitted by the workman that the employment of workmen as Badli, casual or temporary and there continuance as such for years was there. But the management deprive them from the status and privileges of permanent workmen is unfair labour practice according to item no. 10 of the schedule -V of I.D Act 1947. The management terminated the services of the workmen concerned in the year 1990 without obtaining prior permission from the Government in utter violation of section 25N of I.D Act.

7. The management neither given one month's notice in writing indicating reason for retrenchment nor paid in lieu of notice wages for the period of notice. And the management has not paid them retrenchment compensation before terminating their services according to the provision of Section 25F of the I.D Act 1947. The provision of Section 25F of the I.D Act is mandatory. The termination of the workmen concerned without complying the provision 25 F and 25 N of the I.D Act is tantamount of illegal retrenchment.

8. It is further submitted by the workman that in the year 1996 the then Railway Minister during the railway budget of 1996-97 declared that all the temporary, casual and Badli workmen of the Railway shall be regularised as permanent employee and accordingly railway Board issued circular for regularisation of all Badli and temporary workmen.

9. The workmen concerned were also requested the management of Divisional Railway management, Sonapur for their reinstatement but inspite of several requests made by the workmen concerned management has not reinstated them hence dispute arose.

10. The short point to be decided in this reference is, whether the termination of the workmen is proper or not.

11. The workmen concerned were rendering services to the Railways as casual workman/ Badli workmen and they were engaged by the Rly administration as and when required. But the workmen were not of temporary workmen. After termination the workmen concerned raised dispute, and reference, came to this Tribunal for decision.

Both parties are noticed. The parties appeared and subsequently Railways counsel fail to appear in the case and the case was heard ex-parte. On behalf of the workmen one of the workman appeared deposed and said they engaged by the railways and rendered services but subsequently without regularisation they terminated the workmen. Each of the workmen submitted their documents and the I.D Card i.e Lal Card.

12. There is no doubt to disbelieve the unchallenged testimony of the workmen and their documents. The workmen are very old and they are fighting litigation for long. Considering the testimony of the workmen and the documents filed, it is observed to regularise the workmen in railways.

13. Considering the facts and circumstances of the case. I hold that, the action of the management of Divisional Railway Manager, Sonapur Division in terminating the service of Shri Vidya Sagar Thakur & 273 others is not legal and justified. The workmen who have, retired in the meantime and crossed the age of sixty, they be given their retirement dues as per calculation by the management for the whole period in continuous of service of their erstwhile employer, but who are not retired, they be regularised atonce, without any backwages, but they be given continuity of service.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 20 जुलाई, 2017

का.आ. 1751.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 06/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.07.2017 को प्राप्त हुआ था।

[सं. एल-12011/91/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 20th July, 2017

S.O. 1751.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 20.07.2017.

[No. L-12011/91/2013-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR****Present:**

Shri B. C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 06/2014**Date of Passing Award – 09th June, 2017****Between :**

The Chief General Manager,
State Bank of India, Local Head Office,
Pandit Jawaharlal Nehru Marg,
Bhubaneswar, Orissa

...1st Party-Management**(And)**

The General Secretary,
State Bank of India Employees Union,
Bhubaneswar Circle,
C/o. State Bank of India, Zonal Office,
Bhubaneswar (Orissa)

...2nd Party-Union**Appearances:**

Anu Bharati Noonela, Manager (Law) ... For the 1st Party-Management

None ... For the 2nd Party-Union

ORDER

This order arises out of a reference with the schedule (i) “whether the action initiated by the management in transferring the office bearers of the Union namely Shri Santosh Kumar Mohanty, President and Laxmi Samantaray, Treasurer from SBI, LHO, Bhubaneswar in other branches is appropriate and justified? If not what relief both the office bearers of the Union are entitled to?” (ii) “whether the action of the management of SBI, LHO, Bhubaneswar tends to discrimination in the decision making process as per Article-14 of Indian Constitution is legal and justified? If not what relief both the office bearers of the Unions are entitled to?” made by the Government of India, Ministry of Labour vide its letter No. L-12011/91/2013 – IR (B-I), dated 03.01.2014, in exercising its authority under section 10 of the Industrial Disputes Act, 1947. The reference appears to have been made in the event of a dispute arose between the State Bank of India and State Bank of India Employees Union on account of the Management transferring the office bearers of the Union from its one branch to other branch situated in the same headquarters. Being noticed the 2nd Party-Union filed its statement of claim and thereafter failed to take any steps in the further proceedings of the reference. In response to the statement of claim the Management has filed its written statement and it has examined its Chief Manager (IR) as a witness and filed certain documents in support of its stand taken in the written statement. However, in view of the 2nd party-Union’s failure to pursue the dispute raised by it I do not feel it just and proper to answer the reference on the sole ex parte evidence and argument of the Management. From the failure of the 2nd party-Union in contesting the reference it may be presumed that either the Union is not interested to pursue the dispute or the action of the Management appears to have been accepted by the Union. Be that as it may, I am not inclined to answer the reference and I feel it just and proper to return the same without any award to the Government of India for taking necessary action at their end.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 20 जुलाई, 2017

का.आ. 1752.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 42/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.07.2017 को प्राप्त हुआ था।

[सं. एल-12011/30/2014-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 20th July, 2017

S.O. 1752.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 20.07.2017.

[No. L-12011/30/2014-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri B. C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 42/2014

L-12011/30/2014-IR(B-I), dated 11.08.2014

Date of Passing Award – 26th May, 2017

Between :

The Deputy General Manager,
State Bank of India,
Zonal Office, Zone-1,
Near Capital Police Station,
Bhubaneswar – 09

...1st Party-Management

(And)

The General Secretary,
State Bank of India Employees Union,
Bhubaneswar Circle,
C/o. State Bank of India, Zonal Office,
Bhubaneswar, Odisha

...2nd Party-Union

Appearances:

Shri Naveen Ch. Sahu, Chief Manager (HR) ... For the 1st Party-Management

None ... For the 2nd Party-Union

ORDER

Authorized representative for the Management is present whereas, the 2nd party-Union is found absent on repeated calls. After filing of statements/pleadings by the parties when the case was fixed for settlement of issues and evidence of the 2nd party-Union, it remained absent. The record further reveals that despite several adjournments from time to time the 2nd party-Union failed to make its appearance or to take any step to adduce its evidence in support of the dispute raised by it. In the above back-drops and in absence of the 2nd party-Union there is no alternative than to presume that either the Union has lost its interest to pursue the dispute for its judicial adjudication or there exists no

further dispute between the parties. In the given situation I am constrained to return the reference without any award/findings to the Ministry for taking necessary action at their end.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 20 जुलाई, 2017

का.आ. 1753.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ मैसूर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. II, दिल्ली के पंचाट (संदर्भ संख्या 59/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.07.2017 को प्राप्त हुआ था।

[सं. एल-12011/134/2008-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 20th July, 2017

S.O. 1753.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 59/2008) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi as shown in the Annexure, in the industrial dispute between the management of State Bank of Mysore and their workmen, received by the Central Government on 20.07.2017.

[No. L-12011/134/2008-IR (B-I)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI

ID. No. 59/2008

Sh. Jagpal Singh
S/o Sh. Pyare Lal,
R/o House No. E303, JJ Colony,
Nangloi, Delhi

...Workman

Versus

State Bank of Mysore
Through its Dy. General Manager
Central Zone, North West Avenue
Club Road, Punjab Bagh,
New Delhi

...Management

AWARD

The Central Government in the Ministry of Labour, New Delhi- 110001 has referred the following dispute for industrial adjudication to this tribunal vide its notification No. L-12011/134/2008-IR(B-I) Dated 18.11.2008.

“Whether the Action of the management of State Bank of Mysore, in terminating the services of Shri Jagpal w.e.f. 25.07.2004, is just, fair and legal? If not, to what relief is the workman concerned entitled and from which date?”

On 26.12.2008 reference was received in this Tribunal. Which was registered as ID.No. 59/2008 and claimant/workman was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 10.02.2009. Wherein he prayed that a conciliation proceeding may be initiated and the management be prevailed upon to withdraw the punishment of removal of the services of the workman and direct the management to reinstate the workman with continuity and full back wages, failing which the matter be referred for adjudication in the appropriate forum.

Against claim/statement management filed its written statement on 08.06.2009. Wherein he prayed that the statement of claim submitted by the claimant is devoid of any merit both on facts and law, highly belated and unsupported by any of documentary evidence, is liable to be rejected out rightly.

Workman filed no rejoinder against written statement of management.

My Ld. Predecessor had not framed any issue but he proceed this ID case on the basis of questions of determination mentioned in the schedule of reference.

Workman in support of his case produced himself only. He was cross-examined by Ld. A/R for the management.

No corroborated evidence has been adduced by workman/claimant. No documentary evidence produced by workman in support of his claim.

Management in support of its case produced following witness:-

MW1 – Sh. Neeraj Kumar Sinha

MW2 – Smt. Maya (Ex. Wife of the workman)

MW1 Sh. Neeraj Kumar Sinha relied on following documents :-

1. Carbon Copy of letter dated 22.01.2004 addressed to workman by management Bank.
2. Official copy of letter dated 06.05.2004.
3. A.D. Card in original.

Written argument on behalf of workman filed on 30.03.2017. Through which he alleged that it is proved that the termination of the workman is illegal as the management did not hold any inquiry and also violated the provisions of Section 25 F (a) and (b) and this action of the management is inhuman as the management used ex.wife Smt. Maya against him and provided the job to her in his place is violative of all norms of the labour laws and the management acted like a king and the works of 15 years rendered by the workman was not considered and his ex. Wife even granted regular status.

In view of the above, this Hon'ble CGIT-cum-Labour Court – II may graciously be pleased to reinstate Shri Jagpal w.e.f. 25.07.2004 with full back wages with continuity of service along with all consequential benefits as sweeper in the State Bank of Mysore at Paschim Enclave Branch, Delhi.

Prayed accordingly.

In reply management Bank filed written argument. Through which management submitted written argument as follows:-

1. THE CLAIMANT HAS BEEN FAILED TO PROVE THE ALLEGATION/AVERMENTS MADE IN THE AMENDED STATEMENT OF CLAIM

The claim has been filed by the claimant alleging various allegations/adverments, therefore, onus was on the claimant to prove all of those allegations/adverments made in his statement of claim, as mentioned below-

- (a) That the claimant was taken into the employment w.e.f. 30.06.1989 as "Temporary-Sweeper-cum-Peon" (para-1 of the amended statement of claim)
- (b) That services of the claimant were terminated by refusal of duty & without assigning any reason w.e.f. 25.07.2004 (para-2 of the amended statement of claim)
- (c) That the workman had more than 240 days of services in every year (para-5(iii) of the amended statement of claim)
- (d) That the workman sent a legal demand notice – (para-9 of the amended statement of claim)
- (e) That cause of the termination of services was that he was on leave due to illness & was under the medical supervision. This fact was well within the knowledge of the management. The claimant recovered from the illness in the month of July 2004 and was declared fit for duty w.e.f. 25.07.2004. He went to join duty on 25.07.2004 but he was not allowed to join and was asked to wait for some days to get the further approval from the Head Office – (para-3 of the amended statement of claim)
- (f) That the absence of the claimant from the duty was beyond his control and same was duly intimated and sanctioned by the management – [para-5 (ii) of the amended statement of claim]

- (g) That the claimant since then made several representations – (para-4 of the amended statement of claim)
- (h) That the claimant was victimized for his just demand of regularization of services – [para-5 (iv) of the amended statement of claim]

The respondent/bank has denied all of above-stated allegations/averments, therefore, **onus was on the claimant to prove all of the above-stated allegations/averments** but that there is no iota of evidence on record produced by the claimant to prove any of above-stated allegations/averments.

MOST IMPORTANT ALLEGATIONS/AVERMENTS WHICH THE CLAIMANT WAS REQUIRED TO PROVE IN MATTER BUT FAILED TO PROVE, HAVE BEEN DISCUSSED IN DETAILS AS UNDER-

- (a) **That the claimant was taken into the employment w.e.f. 30.06.1989 as “Temporary-Sweeper-cum-Peon”**

There is no iota of evidence on record produced by the claimant to prove that claimant was taken into employment w.e.f. 30.06.1989 as a ‘Temporary-Sweeper-cum-Peon’.

It is relevant to mention here that the respondent/management has taken stand that the claimant was employed as a ‘Temporary Part Time Sweeper’ only as very well reflected from the documents relied upon by the claimant exhibited as **Ex-WW1/1, WW1/3 & WW1/4-5** respectively. It is submitted that in Ex.WW1/4 it has been categorically mentioned that services of the claimant was only Temporary Part Time and not permanent part time. It has also been mentioned that services of the claimant will not be utilized for peon duties even temporarily. Further, the PAPER-2 also prove that the claimant was appointed only a temporary part time sweeper.

- (b) **That services of the claimant were terminated by refusal of duty & without assigning any reason w.e.f. 25.07.2004**

There is no iota of evidence on record produced by the claimant to prove that his services were terminated by the respondent/management on/dated: 25.07.2004. It is submitted that there was no question of said termination because the claimant had already abandoned his temporary job as reflected from the statement of the MW1 & MW2 and Ex-MW1/1 & Mark-B respectively. MW2-Smt. Maya (Ex-wife of the claimant) has not only categorically admitted her signatures at Point-A, B & C on the Ex-MW1/1 duly served upon the claimant but has also stated that the claimant had voluntarily left his services for her engagement in the bank.

Further there was no question of alleged termination of the claimant on/dated: 25.07.2004 because on said day the respondent/bank was closed for weekly off day being public holiday on account SUNDAY. The Hon’ble Tribunal can take judicial notice of same but for the sake of convenience, a copy of calendar of year 2004 has been annexed with these written submissions.

- (c) **That The workman had more than 240 days of services in every year-**

There is no iota of evidence on record produced by the claimant to prove that the workman had more than 240 days of services in every year. It is submitted that although the claimant has annexed with his affidavit of evidence some photocopies of alleged attendance register but same being false & fabricated, therefore, the claimant rightly neither relied on nor exhibited/marked said record in his evidence. Further, the claimant has never summoned any record from the respondent/bank to prove his continuous working of 240 days in year the prior to year in which his temporary services were allegedly terminated.

It is no longer integra that the burden to prove 240 days of the continuous working lies on the workman. In this context, it is appropriate to refer following judgements-

1. **GM, BSNL & ORS V/S MAHESH CHAND-** APPEAL (CIVIL) 19 OF 2007-SUPREME COURT-15.02.2008

On the question of whether the respondent/workman had worked continuously for 240 days in a calendar year, the Tribunal and the High Court wrongly placed the onus on the employer to prove the negative. This is clearly contrary to the decision of this court.- It was the case of the claimant that he had worked so but the claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit in only his statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to conclusion that a workman had, in-fact, worked for 240 days in a year.

2. R.M. Yellati v/s The Asst Executive Engineer – 2005 IX AD (SC) 257

The burden of proof is on the claimant to show that he had worked for 240 days in a given year.

Here it is relevant to mention here that the claimant had moved an application/dated: 19.03.2013 for production of documents for period 20.06.1989 to 25.07.2004 but the Ld. PO was pleased to dismiss the same vide order/dated: 17.04.2013. The claimant had not challenged said order, therefore, same become final and binding upon the claimant. The claimant has also failed to produced the respective evidence in matter as advised to him in order/dated: 17.04.2013.

(d) That the workman sent a legal demand notice-

There is no iota of evidence on record produced by the claimant to prove that he was on leave due to illness and medical supervision. No proof has been placed by the claimant to prove either the respondent bank was well within the knowledge about the alleged illness & medical supervision of the claimant or that the claimant visited at the office of the bank on/dated: 25.07.2004. It is relevant to mention here that no period/date of alleged illness has been mentioned in the amended statement of claim but the claimant has stated in para-3 of his affidavit of evidence (Ex-WW1/A) that he was on leave for two days on 24-25 sept 2003.

2. SECTION-25 F (a) & F (b) OF I D ACT ARE NOT APPLICABLE AS THE CLAIMANT HAS FAILED TO PROVE SECTION-25 B OF THE ACT

The respondent/bank has taken stand that the claimant was neither a permanent employee nor ever worked for 240 days continuously in a year and no proof has been given by the claimant that he had worked continuously for 240 days in any year with the respondent/bank.

For taking any benefit of Section-25 F (a) & (b) of the Industrial Disputes Act, it was for the claimant to prove Section-25 B of the Act that he had worked for 240 days continuously in a year and since he had failed to discharge the onus of proof that lay on him, an adverse inference is liable to be drawn against the claimant, therefore, Section-25 F of the Industrial Dispute Act is not applicable.

Rameshwar Daval v/s The Presiding Officer, Labour Court No. VI- Writ Petition No. 4397/1999- Delhi High Court – 03.04.2007

The petitioner workman failed to discharge the onus of proof place on him and in absence of his having produced that he had worked for a continuous period of 240 days with the respondents in the year prior to the termination of his services, the petitioner workman cannot claim the protection of the provision of section-25 F of the Act and his termination cannot be held to be illegal or invalid for non-compliance of Section-25 F of the Act.

3. NO DOMESTIC ENQUIRY WAS IMPERATIVE

Admittedly services of the claimant were purely part time temporary for specific purpose only for cleaning/dusting and the claimant had never continuously completed 240 days of his said temporary part time services in any of year. The claimant was actually engaged for 2 to 3 hours a day on casual basis. There was neither such regular post of sweeper ever created nor the claimant had ever passed any test conducted for said job. Banks have been used to keep part time temporary sweepers only purely on causal basis only for working of 2 to 3 hours depending upon the need and requirement.

It is submitted that for reasons mentioned supra neither any charges were leveled against the claimant nor there was any protest by the claimant, therefore, no domestic enquiry was required to be conducted, however as an abundant caution, the claimant was called vide Ex-MW1/1 to submit his explanation failing which his said part time temporary service stood terminated. It is pertinent to mention here that for the reasons mentioned supra at request of the claimant his wife MW2/Smt. Maya was put on said temporary job which she was doing without being regularized till the day she entered into witness box.

The claimant being a purely part time temporary sweeper, regular departmental proceeding was not envisaged in the Banking Rules for dispensing with the services of the claimant as a purely part time temporary employee as held in the judgment given below-

SRI JHABESHWAR PRASAD SINGH V/S UNITED BANK OF INDIA- WP (S) No. 235 of 2011-JHARKHAND HIGH COURT -18.09.2015

It is pertinent to mention here that during the trail of the captioned matter also, the claimant has failed to prove that he has continuously worked for 240 days in any of year, therefore, itself evident that any domestic enquiry was never required.

4. **NO RELIEF CAN BE GIVEN TO THE CLAIMANT AS HE HAS LOST THE CONFIDENCE OF THE RESPONDENT/BANK**

It is also relevant to mention here that before abandoning his temporary job of part time sweeper in the month of November of 2003, he has stolen all said record as reflected from the Ex-MW1/A as reflected from the Ex-MW1/A reproduced below-

“8.1: That the attendance registers/records produced by the claimant is false and fabricated.

8.2: That the claimant has neither been authorized by the bank to retain nor supplied official records pertaining to him by any of the official of the management/respondents bank. The claimant has stolen the said official records.”

It is submitted that disposition of the MW1 on stealing of said record by the MW1 remained un-controverted as neither any suggestion nor any question has been put by the A/R of the claimant on the said point in the cross-examination of MW1 held on/DOH: 06.01.2016.

No need to mention here that a person who does the work of sweeping/cleaning & dusting in the office more particularly in bank, has to be a person of full trust and faith of the management because such a person have access to every nook and corner of the office & if dis-grunted can cause server irreparable damage to the management. It is submitted that by steeling the official records from the office of the respondent bank, the claimant had not only committed crime but has also lost all of his trust and faith of the respondent bank, the claimant had not only committed crime but has also lost all of his trust and faith of the respondent/bank, therefore, no relief can be given to the claimant.

5. **THE CLAIM OF THE CLAIMANT IS HIGHLY BELATED & SUFFERING FROM LATCHES & DELAYS**

A right not exercised for a long time is a non-existence. A policy of industrial adjudication is that very stale claims should not be generally encouraged or allowed inasmuch as unless there is satisfactory explanation for delays.

The claimant has alleged his termination on/dated: 25.07.2004 but he kept quiet and did not not challenge his alleged termination for long. The claimant has filed no replication explaining said delay of 4 years. The claimant has produced no document regarding the said inordinate delay of more than 4 years. What the claimant has stated in his corss-examination held on/DOH: 12.09.2013 is that- “I made no written complaint” although the claimant has falsely stated that – “I made written complaint sent through UPC” because there is nothing on record to prove said statement of the claimant.

It is submitted that the claimant had not initiated any action against the respondent/management for the alleged termination on/dated: 25.07.2004 because he himself has not only voluntarily abandoned his temporary part time services of sweeper w.e.f. 25.11.2003, therefore, there was no reason for him initiating any action against the respondent/management bank. Had the claimant been actually terminated on/dated: 25.07.2004 by the bank then he must not have waited for more than 4 years in initiating any action against the respondent/bank against his any termination whatsoever. The claim filed by the claimant is not only highly belated on account of delay & latches but also false, frivolous and after-thought. Kind attention of this Hon’ble tribunal is drawn to following judicial pronouncements-

1. **Dhambir v/s State of NCT of Delhi-** 2000 VII AD (Delhi) 1145- Appropriate Govt. refused to refer the dispute for reason that the claimant kept quiet for long more than 4 years and did not challenge his termination for long – During said period he did not take up the matter with his employer-Rejection of reference was held to be proper and appropriate

2. **State of Punjab v/s Kali Dass & Anr-** (1997) 115 PLR 589-

A workman cannot be allowed to approach the labour court after more than 3 years of the termination of services

3. **Ram Kishan v/s The Secretary, Labor-** 2007 LLR 65 (Delhi High Court)- Absence of limitation period does not mean that a dispute can be raised at any time If the petitioner was aggrieved and had a case that he was retrenched in January 1984, he should have approached the appropriate government for referring the dispute in 1984 itself or within a reasonable time

6. **CLAIM OF THE CLAIMANT IS NOT MAINTAINABLE IN VIEW OF THE VIOLATION OF THE EXPRESS PROVISIONS OF THE RULE-10(B) OF THE INDUSTRIAL DISPUTES (CENTRAL) RULES, 1957**

That the claim of the claimant is not maintainable in view of the violation of the express provisions of the Rule-10(B) of the Industrial Disputes (Central) Rules, 1957 as the statement of claim has neither been filed within the limitation period nor annexed with the relevant documents, list of witnesses. The replying management has also not been forwarded an advance copy of 'such statement' as mentioned in above-stated Rule 10(B).

7. THE TERMS OF THE REFERENCE ARE ITSELF WITHOUT APPLICATION OF MIND, THEREFORE, NO VALID AWARD CAN BE PASSED

The satisfaction of the existence of an industrial dispute or the satisfaction that an industrial dispute is apprehended is "a condition precedent to the order of reference". An order of reference cannot be made mechanically without application of mind but in the present case there appears no application of mind for the reasons mentioned below-

(a): **Alleged day of termination i.e. 25.07.2004 was weekly off day of the respondent/bank being SUNDAY**

(b): **No industrial dispute existed on the date of making of reference as no demand notice was served upon the respondent/bank by the claimant**

The above-mentioned points have been discussed as under-

(a): ALLEGED DAY OF TERMINATION I.E. 25.07.2004 WAS WEEKLY OFF DAY OF THE RESPONDENT/BANK SUNDAY

There can be no question of alleged termination of the claimant on/dated: **25.07.2004** because on said day, the respondent/bank was closed on account of weekly off day being **SUNDAY** as reflected in the calendar of year 2004 annexed with these written submissions. The claimant has also admitted in his cross-examination Sunday being holiday.

It is relevant to mention here that the claimant has not only alleged in para-2 of his amended statement of claim and para-2 to 4 of his affidavit of evidence but also has re-affirmed said termination on/dated: 25.07.2004 in his cross-examination held on/DOH: 12.09.2013 which has been reproduced below-

"It is correct that when bank shifted to National Market then holiday for Sunday was made available for me plus half day Saturday leave was given to me. It is true that contents of that para 3+4 of my affidavit are correct. It is correct that I was terminated on 25/7/2004....."

It is submitted that the question in terms of reference before this Hon'ble Tribunal is – **"Whether the action of the management of State Bank of Mysore, in terminating the services of Shri Jagpal wef 25.04.2004, is just, fair and legal"**, therefore reply can only be that there was no question of alleged termination of the services of the claimant on 25.04.2004 being the Sunday i.e. weekly off the respondent bank.

(b): NO INDUSTRIAL DISPUTE EXISTED ON THE DATE OF MAKING OF REFERENCE AS NO DEMAND NOTICE WAS SERVED UPON THE RESPONDENT/BANK BY THE CLAIMANT

It is a matter of record that the claimant has placed on record no legal demand notice in his entire evidence. It has been held by the Hon'ble Supreme Court of India in matter-

Sindhu resettlement Corporation Ltd v/s Industrial Tribunal Gujarat & Ors- AIR 1968 SC 529 that- since the workman had not raised any demand notice with the management challenging their retrenchment or seeking reinstatement, the question of reinstatement, the question of reinstatement could not have been referred by the appropriate Govt in the Labor Court.

It is relevant to mention here that above-said judgment has been followed in number subsequent cases some of which have been as under-

1. Feddersloyed Corporation PVt Ltd v/s L.G. of Delhi – AIR 1970 Delhi 60
2. Orissa Industrial Pvt Ltd. v/s Presiding Officer, IT – 1975 (31) FLR 305
3. New Delhi Tailoring Mazdoor Union v/s S.C. Sharma- 1979 (39) FLR 195
4. Shashi Bhusahn v/s M/s. Hindustan Times – 07.07.2007
5. Management of M/s. Hotel Samrat v/s Govt. of NCT of Delhi & Ors- WP (CP No. 6682/2002 & 6274/2004- Delhi High Court- It is submitted that a mere demand to the Govt, without a dispute being raised by the workman with its employer, cannot become an industrial dispute. Consequently, the material on record clearly showed that no such industrial dispute, as was purported to be referred by the appropriate Govt, in making a reference, obviously, committed an error in basing its opinion on material

which was not relevant to the formation of opinion. On these fact, it is evident that the reference made by the appropriate Govt. is not competent.

In view of succinct enunciation by the various courts, there is no scope for entertaining an industrial dispute/claim without a demand notice being first raised with the management. The industrial dispute does not at all come into existence before a demand notice being sent to the management. The raising of a dispute by the workman with the management is a condition precedent for making any reference under Section-10 of the Industrial Dispute Act, therefore, any reference which has been made without raising any dispute with the employer, is an illegal reference & as such said reference has to be nipped in the bud.

8. THE CLAIMANT IS NOT ENTITLED TO CLAIM RE-INSTATEMENT, BACK WAGES AND UNEMPLOYMENT

Admittedly there is nothing on record placed by the workman to show/prove that any demand notice after the alleged termination of his services on/dated:25.07.2004 was ever been served upon the respondent/bank, therefore, there exist no industrial dispute at all for enabling the claimant to demand any-re-instatement, back wages & unemployment wages etc.

It is relevant to mention here that the Punjab & Haryana High Court in a case – **The Director, Health & Family Welfare Chandigarh v/s Balvinder Kaur- (1996 LLR 493)** – has held that back wages were payable to the workman from the date of demand notice and not from the date of termination, on the ground that no dispute existed before the demand notice was served.

It is relevant to mention here that banks have been used to keep part time temporary sweepers purely on part time basis only for working 2 to 3 hours depending upon the need and requirements. It is submitted that not any post of sweeper ever created on regular basis by the respondent/bank.

9. EVEN OTHERWISE THIS HON'BLE TRIBUNAL HAS NO POWER TO DIRECT BACK DOOR ENTRY OF THE SERVICES OF TEMPORARY EMPLOYEES

It is relevant to mention that during the cross-examination of the claimant held on/DOH: 12.09.2013, he was confronted with a document i.e. a letter/dated : 02.03.1993 marked as **Paper No. 2** wherein the claimant has admitted his signatures at **Point-A** of said document. In this document, the claimant has admitted that he was working as '**Part Time Sweeper in Temporary Capacity**' as reproduced below-

“..... that I am working in this esteemed bank at Paschim Enclave Branch as Part Time Sweeper in Temporary capacity since 30.06.1989.....”

It is submitted that the respondent bank is a nationalized bank. Amongst the sub-ordinate staff of the bank, there are four classes of employees-Permanent, probationary, Temporary & Part Time employees, who are governed by Clause-508 of the SHASTRI AWARD. The sub-ordinate staff in nationalized banks came to known as Award Staff. The appointments are made in accordance with the norms laid down by the Govt. of India. The rules of the recruitment have prescribed the criteria in regards to age and educational qualifications in accordance with the guidelines of the Bureau of The Public Enterprises of the Govt. of India.

It is undisputed position that the workman to which present matter related was never recruited by following the regular process of the recruitment but he was engaged only temporarily as the exigencies of sweeping/cleaning work required. The employment of workman was admittedly on a purely temporary basis and he was never considered fit for regularization during his tenure of services before he voluntarily abandoned his said temporary services in November 2003. A selection against a permanent vacancy had to be in accordance with the rules and regulation only.

The respondent/bank most respectfully submits that in the land mark judgment relating to casual/temporary employees, the Hon'ble Supreme Court of India in a matter titled as- **Secretary, State Bank of Karnataka v/s Umadevi & Others – (AIR 2006 SC 1806)** has categorically held that – Unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee- If it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discounted – Merely because a temporary employee or a casual wage worker is continued for a time beyond the terms of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on strength of such continuance, if the original appointment was not made by the relevant rules – High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue direction for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme.

PRAYER-

It is, therefore, most respectfully prayed that the statement of claim/amended statement of claim filed by the claimant/workman is devoid of any merit or substances, therefore, may kindly be dismissed with cost and reference may kindly be answered accordingly.

In the light of contentions and counter contentions mentioned in written arguments. I perused the pleadings and evidence of parties on record. Which makes it crystal clear that evidence of workman is neither required nor credible and nor reliable. While evidence of management is required, reliable and credible.

In this background reference is liable to be decided against workman and in favour of management.

Which is accordingly decided and claim/statement is dismissed.

Award is accordingly passed.

Dated : 07.06.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 21 जुलाई, 2017

का.आ. 1754.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 87/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.07.2017 को प्राप्त हुआ था।

[सं. एल-20012/91/2014-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st July, 2017

S.O. 1754.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 87 of 2014) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 19.07.2017.

[No. L-20012/91/2014-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947

Reference No. 87/2014

Employer in relation to the management of Katras Area of M/s. BCCL

AND

Their workman

Present : Shri R.K. Saran, Presiding Officer

Appearances :

For the Employers : Shri D. K. Verma, Advocate

For the workman : Shri S. K. Roy, Rep.

State : Jharkhand

Industry : Coal

Dated : 15/06/2017

AWARD

By order No.-L-20012/91/2014 IR-(CM-I), dated. 30/09/2014 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Katras Area of M/s. BCCL in dismissing Sri Ishq Ansari M/Loader from the service w.e.f. 27.04.2009 is fair and justified? To what relief the concerned workman is entitled to?”

2. The case is received from the Ministry of Labour on 15.10.2014 After receipt of reference , both parties are noticed. The Sponsoring Union files their written statement on 17.12.2014. And the management files their written statement -cum-rejoinder on 22.04.2015. The point involved in the reference is that the workman has been dismissed from his services.
3. During preliminary hearing of this case, domestic enquiry held by the management is accepted by the Sponsoring Union/workman as Fair & Proper . Thereafter document of Management is marked as M-1 to M-7.
4. The point involved in the reference is that the workman has been dismissed from his services on the ground of long absence. But he has already out of service since last 8 years. It is felt to give another chance to the workman concerned to serve.
5. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee in cat-I. But the workman be kept under probation for a period of two year. Therefore the question of back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 जुलाई, 2017

का.आ. 1755.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 25/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.07.2017 को प्राप्त हुआ था।

[सं. एल-20012/70/2007-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st July, 2017

S.O. 1755.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 25 of 2009) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 19.07.2017.

[No. L-20012/70/2007-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947

Reference No. 25/2009

Employer in relation to the management of Lodna Area of M/s. BCCL

AND

Their workman

Present : Shri R.K. Saran, Presiding Officer

Appearances :

For the Employers : Shri S. N. Ghosh, Advocate

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 14/06/2017

AWARD

By order No. L-20012/70/2007-IR(CM-1) dated 17/04/2009, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“ i) Whether the action of the Management of Bagdigi Colliery under Lodna Area of M/s. BCCL in dismissing Shri Dinanath Pandey, surface Trammer from the services of the company w.e.f. 29/10/2003 is justified and legal? ii) To what relief is the workman concerned entitled?”

2. After receipt of the reference, both parties are noticed. But none appears on behalf of the sponsoring Union/workman. Management is present. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 जुलाई, 2017

का.आ. 1756.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 39/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.07.2017 को प्राप्त हुआ था।

[सं. एल-20012/38/2009-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st July, 2017

S.O. 1756.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 39 of 2009) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 19.07.2017.

[No. L-20012/38/2009-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947

Reference No. 39/2009

Employer in relation to the management of Katras Area of M/s. BCCL

AND

Their workmen

Present : Shri R.K. Saran, Presiding Officer**Appearances :**

For the Employers : None

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 16/06/2017

AWARD

By order No. L-20012/38/2009-IR(CM-1) dated 27/06/2009, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“(i) Whether the action of the management of Katras Area of M/s. BCCL in not paying the difference of gratuity and arrear wages as per NCWA-VII, Bonus, leave wages, LTC/ LLTC to Shri Naresh Nonia, Ex- Senior Over man is justified and legal? (ii) To what relief is the workman concerned entitled?”

2. After receipt of the reference, both parties are noticed. But none is appearing from either side. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 जुलाई, 2017

का.आ. 1757.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 70/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.07.2017 को प्राप्त हुआ था।

[सं. एल-20012/86/2009-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st July, 2017

S.O. 1757.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 70 of 2009) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 19.07.2017.

[No. L-20012/86/2009-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947

Reference No. 70/2009

Employer in relation to the management of Govindpur Area of M/s. BCCL

AND

Their workman

Present : Shri R.K. Saran, Presiding Officer

Appearances :

For the Employers : Shri D. K. Verma, Advocate

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 16/06/2017

AWARD

By order No. L-20012/86/2009-IR(C-1) dated 14/12/2009, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the Management of South Govindpur Colliery under Govindpur Area of M/s. BCCL in dismissing Shri Ganesh Beldar, Clerk from the services of the company w.e.f. 27/12/2006 is justified and legal? ii) To what relief is the workman concerned entitled?”

2. After receipt of the reference, both parties are noticed.. But none appears on behalf of the sponsoring Union/workman. Management is present. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 जुलाई, 2017

का.आ. 1758.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 27/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.07.2017 को प्राप्त हुआ था।

[सं. एल-20012/22/2009-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st July, 2017

S.O. 1758.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 27 of 2009) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 19.07.2017.

[No. L-20012/22/2009-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947

Reference No. 27/2009

Employer in relation to the management of Barora Area of M/s. BCCL

AND

Their workman

Present : Shri R.K. Saran, Presiding Officer

Appearances :

For the Employers : None

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 16/06/2017

AWARD

By order No. L-20012/22/2009-IR(CM-1) dated 24/04/2009, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“i) Whether the action of the management of Madhuband Colliery under Barora Area of M/s. BCCL in dismissing Sri Gurupado Bauri w.e.f. 23/12/2005 is justified and legal ?

ii) To what relief is the workman concerned entitled ?”

2. After receipt of the reference, both parties are noticed. But none appears from either side. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1759.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 140/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 12.07.2017 को प्राप्त हुआ था।

[सं. एल-22012/80/1999-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1759.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 140/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial Dispute between the management of M/s. ECL and their workmen, received by the Central Government on 12.07.2017.

[No. L-22012/80/1999-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL****PRESENT :** Sri Pramod Kumar Mishra, Presiding Officer**REFERENCE NO. 140 OF 1999****PARTIES :**

The management of J. K. Nagar Mines of M/s. ECL

Vs.

Their Workmen

REPRESENTATIVES:

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri Sayantan Mukherjee, Learned Advocate

Industry : Coal

State : West Bengal

Dated : 14.06.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **No. L-22012/80/99-IR(CM-II)** dated 31.08.1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of J. K. Nagar (R) Mines, Po: Bidhanbag, Dist: Burdwan in deducting the wages of workmen for the period from 24.04.1998 to 28.02.1998 and 13.04.1998 to 14.04.1998 without issuing Chargesheet, holding proper enquiry and without statutory notice of deduction is justified? If not, to what relief the concerned workmen are entitled? ”

1. Having received the Order **No. L-22012/80/99-IR(CM-II)** dated 31.08.1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case **No. 140 of 1999** was registered on 14.09.1999 / 05.10.2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

2. Case called out. Sri P. K. Das, Learned Advocate is present on behalf of the management and Sri Sayantan Mukherjee, Learned Advocate is present on behalf of the workmen.

3. On perusal of the case record I find that the case was reserved for “No Dispute Award” on 01.07.2015 after granting 12 (Twelve) dates and more than 2 (Two) years. On 13.07.2015 Sri Sayantan Mukherjee, Learned Advocate moved a petition that due to sudden breakdown of his car he could not appear before the Tribunal and on the basis of this very petition the order dated 01.07.2015 for “No Dispute Award” was set-a-side. On 07.06.2016 the management filed written statement and the case was again fixed for the evidence of the workmen. Thereafter on 3 (Three) dates i.e. 22.08.2016, 23.11.2016 & 01.02.2017 Sri Sayantan Mukherjee remained absent. On 11.04.2017 Sri Sayantan Mukherjee appeared before the Tribunal and prays for time as a result a last opportunity was granted to him for filing evidence of the workmen on 13.06.2017, but on the said date i.e. on 13.06.2017 he appeared late and did not make any appeal before the Tribunal. With no option left the Tribunal reserved the reference for passing the “No Dispute Award”.

4. After rising the court on 13.06.2017 Sri Sayantan Mukherjee appeared at 02:45 PM and filed affidavit of Sri Pradip Kumar Sinha. The affidavit has been sworn on 11.04.2017, but still at the time of submitting affidavit the witness was not present. This is one of the oldest Reference of this Tribunal - of the year 1999, near about 18 years old. But it appears that the workmen / union have no more interest left to proceed with the case any further.

5. Since the workmen / union have no interest to proceed with the reference the Tribunal has no reason left to keep this old record pending without any result. As such the case is closed and a “No Dispute Award” is hereby passed accordingly.

ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1760.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 87/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 12.07.2017 को प्राप्त हुआ था।

[सं. एल-22012/95/2006-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1760.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 87/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial Dispute between the management of M/s. ECL and their workmen, received by the Central Government on 12.07.2017.

[No. L-22012/95/2006-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 87 OF 2006

PARTIES :

The management of Kunustoria Colliery of M/s. ECL

V/s.

Shri Madan Napit

REPRESENTATIVES:

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri S. K. Pandey, Learned Union Representative

Industry : Coal

State : West Bengal

Dated : 30.06.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter **No. L-22012/95/2006-IR(CM-II)** dated 01.11.2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the management of Kunustoria Colliery of M/s. ECL in dismissing Shri Madan Napit from service w.e.f. 20.12.2003 is legal and justified? If not, to what relief is the workman entitled? ”

1. Having received the Order **NO. L-22012/95/2006-IR(CM-II)** dated 01.11.2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **87 of 2006** was registered on 11.12.2006. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The workman Shri Madan Napit has filed written statement through his Union Representative, has alleged in his written statement that he was in employment of the Company as U.G. Trammer at Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited, bearing Man No. 444160. He was chargesheeted for alleged unauthorized absence from duty w.e.f. 22.04.2003 vide Chargesheet No.ECL/KNT/PER/CS-7/3841 dated 13.10.2003. The workman was absent due to his illness which was beyond his control. Being declared fit by doctor, he reported for duty, but he was not allowed to resume his duty. The workman replied to the Chargesheet. He appeared before the Enquiry Officer during enquiry proceeding. But he was not given opportunity to defend himself. The Enquiry Officer submitted biased Enquiry Report against the workman, ignoring sick certificates submitted by the workman regarding his illness. From the Enquiry Report it seems that the Enquiry Officer had acted as management representative and incorporated the points, which was not even raised during enquiry proceeding. The whole enquiry is biased. The Chief General Manager of Kunustoria Area of M/s. Eastern Coalfields Limited dismissed the workman from service of the company with effect from 20.12.2003 vide his order No. A-KNT/P&IR/26(B)/7425 dated 20.12.2003 on the basis of the biased Enquiry Report. The dismissal of workman Shri Madan Napit is illegal and unjustified. The workman is out of job since then and his whole family is on the verge of starvation. The workman has prayed that the management of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited be directed to reinstate the workman in service with full back wages for the period from the date of dismissal with all consequential benefits.

3. The Agent of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited has alleged in his written statement that the concerned workman was absent from duty unauthorizedly since 13.02.2003 to 13.10.2003 without any prior permission or authorized leave. As such the ex-workman was chargesheeted by the company vide Chargesheet No. ECL/KNT/PER/CS-7/3841 dated 13.10.2003. As per provision of Standing Order vide Clause No. 26.23, the chargesheeted workman failed to reply the charge. As such a domestic enquiry was held into the said Chargesheet by the Enquiry Officer. The chargesheeted workman duly participated in the enquiry proceeding and he was given the assistance of co-worker. The Enquiry Officer after conclusion of his enquiry proceeding held the ex-workman to be guilty for misconduct. All reasonable opportunities were given to the ex-workman to defend his case in accordance with the principles of natural justice. The competent Authority after perusal of Charge Sheet, Enquiry Proceeding, Enquiry Report and all other connected papers passed the Dismissal Order vide reference No. A-KNT/P&IR/26B/2425 dated 20.12.2003. The punishment awarded to the workman is justified and proportionate to the gravity of his misconduct. The Agent of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited has denied that the workman was absent due to his sickness. The workman is not entitled for any relief as prayed for by him.

4. The workman has filed the following documents :-

(i) Copy of 8 (Eight) treatment papers regarding his sickness, (ii) Copy of the Enquiry Proceeding, (iii) Copy of the Enquiry Report, (iv) Copy of the Dismissal Order. The workman, Shri Madan Napit has filed affidavit in his oral evidence. He has been cross-examined by the learned Advocate of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited.

The Agent of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited has not filed any documentary evidence nor examined any oral evidence.

5. I have heard the argument of Shri S. K. Pandey, learned union representative appeared on behalf of the workman Shri Madan Napit and Shri P. K. Das, learned advocate appeared on behalf of Kunustoria Colliery, Kunustoria Area of M/s. Eastern Coalfields Limited.
6. Shri S. K. Pandey, learned union representative for the workman has argued that the workman was sick. The Colliery authority has itself recommended for treatment of sick concerned workman, Shri Madan Napit. This fact was not considered in Enquiry Proceeding by the Enquiry Officer. Though the workman has filed his treatment papers, but it was not considered in Enquiry Proceeding. He has also argued that the workman was denied opportunity to defend himself. The enquiry is biased and vitiated one. He has also argued that in the year 2014 the delinquent workman has reached the age of superannuation. On the other hand, Shri P. K. Das, the learned advocate has argued that the workman was unauthorizedly absent from duty. The punishment of dismissal is justified. The unauthorized absence is one of the misconduct as per the Standing Order.
7. It is not disputed that Shri Madan Napit had been in employment of the company as Underground Trammer at Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited. It is also not disputed that he was absent from duty. It is admitted fact that the departmental enquiry was conducted regarding his absence, which has been challenged by the workman. As per management of Kunustoria Colliery the enquiry has been conducted due to unauthorized absence, which is punishable under Clause 26.23 of Certified Standing Order.
8. As per Certified Standing Order applicable to M/s. Eastern Coalfields Limited “*Habitual late attendance or habitual absence from duty without sufficient cause is punishable under Clause 26.23 of Certified Standing Order.*”
9. The copy of Chargesheet has not been filed by the Agent of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited. It is settled law that the burden of proof of misconduct of the concerned employee lies on the department concerned. If any workman is guilty of misconduct, the liability lies on the shoulder of department / employer to prove the guilt of the delinquent workman. It is the duty of the concerned colliery to submit copy of Chargesheet issued to the workman, which is the basis of departmental enquiry. Before proceeding with the domestic enquiry against a delinquent workman, the employer / Enquiry Officer must serve Chargesheet regarding the charges levelled against the delinquent employee. It is the duty of the employer to indicate to the delinquent employee not only the precise nature of the charge, but also the documents, if any, upon which the charges are based. The Chargesheet should specifically set out all charges, which the workman is called upon to show-cause against him. The Chargesheet must contain all relevant particulars upon which the delinquent is required to submit his explanation. The very purpose of this requirement is that the delinquent workman must know what he is charged with and must have opportunity to meet the charges by giving a proper explanation. If charges are vague, the delinquent workman cannot submit proper explanation. Since the copy of Chargesheet has not been filed by the Agent of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited, the Tribunal cannot appreciate the grounds or particulars of charges.
10. The management witness Shri R. B. Paswan has deposed in his examination-in-chief that Shri Madan Napit was absent in the year 2001, 2002 and 2003. So far as the previous misconduct is concerned, if the delinquent workman has not been chargesheeted for his previous misconduct no amount of evidence can be laid in this connection. On perusal of written statement of the Agent of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited, it is manifest that there is no allegation of previous absence of Shri Madan Napit. There is no copy of Chargesheet. Before leading evidence for previous absence or previous misconduct, the employee should be chargesheeted for that misconduct. The employer cannot justify his action on any grounds other than this contained in the Chargesheet. If the particulars of previous absence have not been mentioned in the Chargesheet, then leading evidence in this regard would be violation of principles of natural justice.
11. Reasonable opportunity means not only framing of charges but much more. The rules of natural justice require that when a fact is sought to be proved, it must be supported by evidence in presence of delinquent employee. The delinquent employee should be given an adequate opportunity of cross-examine the management witness who is giving evidence against him. On perusal of enquiry proceeding it is apparent that the concerned workman Shri Madan Napit was not afforded opportunity for cross-examine the management witness. He was never asked to cross-examine the management witness. The Enquiry Officer has recorded the statements of Shri R. B. Paswan, Leave Clerk and Shri Abhijit Ghosh, Clerk. Though, Shri Madan Napit was present in the enquiry proceeding but he was denied opportunity of cross-examination from these witnesses. In whole enquiry proceeding the Enquiry Officer has not recorded any date of proceeding. It appears that all enquiry proceeding has been recorded in one date without recording the date in enquiry proceeding. The statement of Shri R. B. Paswan has been recorded just after his completion of examination-in-chief. The statement of Shri Abhijit Ghosh has been recorded without recording cross-examination of this witness by delinquent workman. Even the delinquent workman was not given opportunity to avail the assistance of co-worker. In **Punjab National Bank V/s A.I.P.N.B.E. Federation vide AIR 1960 S.C., page 160**, the Hon’ble Supreme Court has held that :

“Evidence in enquiry must be recorded in the presence of the chargesheeted employee and he must be given an opportunity to rebut such evidence.”

12. On perusal of enquiry proceeding it is manifest that the delinquent workman was denied opportunity to lead defence evidence. After recording of examination-in-chief of management witness Shri R. B. Paswan and Shri Abhijit Ghosh, statement of Shri Madan Napit was recorded and the Enquiry Officer submitted the Enquiry Report without affording opportunity to lead defence evidence to concerned workman to prove his innocence or explain his circumstances. At the cost of repetition it is relevant to mention that the Enquiry Officer has not recorded any date in Enquiry Proceeding or in Enquiry Report. It seems that all paper works had been done and signature of delinquent workman has been obtained in one date. The concerned workman has filed affidavit in his oral evidence. He has stated in Para- 2 & 3 of his affidavit that he was sick and was under the treatment of company's hospital for the period for which he had been chargesheeted. He submitted all treatment papers before the Enquiry Officer, but the Enquiry Officer ignored all these papers. In cross-examination he has supported the statement stated in his examination-in-chief. The delinquent workman has filed treatment papers of Central Hospital, Kalla of M/s. Eastern Coalfields Limited dated 08.02.2003, 08.03.2003 and 16.08.2003, the treatment paper of Kunustoria Area Hospital dated 10.02.2003 and 05.06.2003. The Agent of Kunustoria Colliery, Kunustoria Area of M/s. Eastern Coalfields Limited has written letter dated 04.06.2003 addressed to Additional C.M.O. for treatment of Shri Madan Napit. Medical Superintendent of M/s. Eastern Coalfields Limited, Head Quarter has recommended for treatment of Shri Madan Napit to another Government Medical College and Hospital at Kolkata by letter No. ECL/C-5(E)/M/13/CMS/03/1681 dated 19/21.07.2003. From this letter it appears that not only the Colliery Officer but also the Medical Superintendent considered for treatment from outside area. This indicates that Shri Madan Napit was really ill and this fact was within the knowledge of concerned colliery. These papers have not been considered by Enquiry Officer in enquiry proceeding, even the Enquiry Officer has not given opportunity to workman to submit his papers. Though the management witness Shri R. B. Paswan has admitted that Shri Madan Napit was under the treatment at Company's hospital for a part of the absence period. He has alleged that Shri Madan Napit has filed medical certificates from Company's hospital. Even the Enquiry Officer in his enquiry report has accepted this fact and he has written in his enquiry report that chargesheeted workman was under the treatment of major part of the absence period for which he was under the treatment at Company's hospital. When this fact is admitted by management witness and the Enquiry Officer then how delinquent workman can be said to be unauthorized absentee. The Enquiry Officer ought to have recorded the findings whether the absence of Madan Napit was willful or under compelling circumstances. If the absence of Madan Napit was under compelling circumstances which was beyond his control, then his absence cannot be treated as misconduct. In **Krushnakant B. Parmar V/s Union Of India & Another 2012(132) FLR page 1023 S.C.**, the Hon'ble Apex Court has held that :

“If the absence is the result of compelling circumstances under which it was not possible to report or perform duty, such absence cannot be held to be willful. Absence from duty without any application or prior permission may amount to unauthorized absence, but it does not always means willful. An employee may abstain from duty under compelling circumstances beyond his control like illness hospitalization etc, but in such case the employee cannot be held guilty of failure of devotion to duty or behavior unbecoming of government servant. The Disciplinary Authority is required to prove that absence is willful. In absence of such finding the absence will not amount to misconduct.”

13. The Chief General Manager Kunustoria Area has passed the dismissal order vide reference No. A-KNT/P&IR/26B/7425 dated 19/20.12.2003. As has been discussed above the concerned workman Shri Madan Napit was denied opportunity of cross-examination from management witness and opportunity to defend himself. But contrary to it, the Chief General Manager has mentioned in his dismissal order as

“Reference to the Chargesheet mentioned above issued to you, an enquiry was conducted wherein you fully participated in the enquiry and were given full opportunity to cross examine the management witness and to defend yourself. The findings of the Enquiry Officer reveals that the charges under section 26.23 of Certified Standing Order levelled against you were proved beyond any doubt. I have personally gone through the enquiry proceeding.”

14. It transpires that the Chief General Manager without perusing the enquiry proceeding and enquiry report has passed the dismissal order in a mechanical manner. The order of dismissal is a major punishment, it cannot be a casual exercise.

15. Right to livelihood is an important right to life. It must be deemed to be an integral component of the right to life. If a person is deprived of his right to livelihood, it means he has been deprived from his life. Such important right can only be deprived by a procedure established by law. Such deprivation can be effected by a valid, impartial and bona fide enquiry. Without conducting a valid and impartial domestic enquiry, the punishment of dismissal is not only harsh, but also illegal which must be set-aside. The delinquent has filed his Identity Card. His date of birth in the Identity Card has been recorded as 18.03.1954, so he has crossed the age of superannuation in the year 2014. The learned union

representative Shri S. K. Pandey has also argued that the concerned workman has already reached the age of superannuation. So question of reinstatement does not arise.

16. The workman has stated in Para- 9 of his written statement that he is out of job since then and his family is on the verge of starvation. Even this fact has not been declined by the Agent of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited in his written statement. The delinquent workman in his affidavit also stated that he is out of employment since then.

17. The hon'ble Supreme Court in **Mackinnon Mackenzie and Company Ltd. V/s Mackinnon Employees' Union, 2015 (145) FLR 184** has held :

“ The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer. If the employer wants to deny back wages to the employee or contest his entitlement to get consequential benefits, then it is for him / her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. Denial of back wages to an employee, who has suffered due to an illegal act of the employer would amount to indirectly punishing the concerned employee and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments. ”

18. In view of above discussion the action of management of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited in dismissing Shri Madan Napit from service w.e.f. 20.12.2003 is illegal and unjustified. The Dismissal Order of Shri Madan Napit dated 20.12.2003 is hereby set-a-side. Since he has reached the age of superannuation he cannot be reinstated, but he is entitled for back wages from the date of dismissal till his retirement. The workman Shri Madan Napit will be imposed a punishment of stoppage of 2 (Two) annual increments without cumulative effect.

ORDER

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1761.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 132/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.07.2017 को प्राप्त हुआ था।

[सं. एल-22012/413/2003-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1761.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 132/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. SCCL and their workmen, received by the Central Government on 13.07.2017.

[No. L-22012/413/2003-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated the 22nd day of June, 2017

INDUSTRIAL DISPUTE No. 132/2004

Between :

The General Secretary (Sri Bandari Satyanarayana),
Singareni Collieries Employees Council (TNTUC)
BCH-30, Vittal Nagar,
Godavarikhani- 505209

...Petitioner Union

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Ramagundam-I Divn.,
Godavarikhani-505209

...Respondent

Appearances :

For the Petitioner Union : M/s. G. Sudha, A.V. Appa Rao & K. Venkatesh, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/413/2003-IR(CM-II) dated 4.10.2004 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Ramagundam-I Division, Godavarikhani in not regularizing the services of Sh. Nagunuri Rajaiah, Coal Cutter, GDK-2A Inc. as Chit Issuer or Clerk Gr.III is legal and justified? If not, to what relief the concerned workman is entitled?”

The reference is numbered in this Tribunal as I.D. No.132/2004 and notices were issued to the parties concerned.

2. The averments made in the claim statement in brief are as follows:

The workman Sri Nagunuri Rajaiah was appointed as Coal Filler in the Respondent's management 4.6.1975. Later he was designated as Coal Cutter from 1.3.1997. The workman is an educated man and has possessed Intermediate qualification. It is the practice in the Respondent company to call upon the underground mine workers who were working as coal fillers, coal cutters, general Mazdoors and any other designation persons who had educational qualifications and can carry out clerical jobs are posted to discharge clerical duties. First time in the month of November, 1988 the Respondent management officials called upon the workman to perform clerical duties in GDK 1 incline i.e., to issue explosives and maintain record etc.. The workman has been discharging the duties of a clerk from 1988 to 20.1.2001, for a period of 13 years. It is submitted that whenever an employee working in lower category was posted to discharge the duties of higher cadre or grade they are paid difference of salary as Acting Allowance” and they are designated in the said post as Acting”. This posting of acting clerks is not on temporary basis but on permanent basis. These acting employees could not get promotions in their regular cadre nor they were regularized in the acting cadre, resulting in loss of service benefits and promotion avenues in the cadre/post/designation and thus, they were deprived of both the benefits. This issue was raised by the employees as well as by the union. As per the understanding and settlement, the management has decided to review the cases of the acting clerks and they will be given promotion as one time measure. In pursuance of the minutes of the meeting, the details of the employees who are working as Acting Clerks were collected through the Superintendent of Mines and the details of the workman were also sent to the management. Since no further action was taken by the management, major union have issued a strike notice for various demands including confirmation of the Acting Clerks. Thereafter conciliation proceedings were initiated and a settlement was arrived, wherein the management has agreed to regularize all the Acting Clerks as one time measure. Initially 181 vacancies are to be filled up in September, 1997 in order of seniority through assessment report and interview. Remaining 93 Acting Clerks will be absorbed as per the requirement in a phased manner by the end of December, 1997. After due process, the workman has been called for the interview, but he was not considered for absorption whereas his juniors viz., Bandam Rajaiah, Annam Lakshmi Narasaiah, Gujjeti Srinivas, Ata Prakash and several others were considered, as per the procedure adopted contrary to the settlement. The workman was not awarded proper marks, his performance, his service, marks in interview, all in total he was awarded only 35 marks and he was found low assessment. Thus, the Respondent adopted illegal methods and discriminative attitude, so the workman filed WP No.916 of 2000 along with 10 others questioning the action of

the Respondent on the ground that the Respondent company has not considered the acting clerks in terms of the settlement dated 31.7.1997 and the proceedings No. P(PM)4/3208/2506 dated 20.2.1999 regularizing the Junior Acting Clerk Services ignoring the workman's claim is bad in law, but the same was dismissed along with other writ petitions on 7.8.2000 by the Hon'ble High Court on the ground, no factual basis laid down by the seniors who made the claim. Being aggrieved the workman along with others filed Writ Appeal No.1048, 1052, 1153 and 1269 of 2000 which were also dismissed as not maintainable with an observation that if the Petitioners so desire they can raise a dispute in terms of Section 10 of the Industrial Disputes Act for adjudication. Thereafter the Petitioner's union raised an industrial dispute which was referred to this Tribunal. It is submitted that had the workman continued in the mining staff i.e., as coal cutter, he could have acquired skills and passed the statutory mining examinations and could have become Under Manager or Manager and as such, the workman lost that channel of promotions. Had the workman was regularized in the post of clerk, he would have got promotions in that cadre. The workman was deprived of both the channels of promotions by the acts of the management. In view of the above facts, it is submitted this Tribunal may be pleased to set aside the orders passed vide Ref. No.AHR/P/333 dated 19.1.2001 and direct the Respondent to regularize the services of the workman with effect from October, 1999 and grant all attendant benefits and service benefits on par with the juniors by holding that the action of the management not regularizing the Petitioner workman as chit issuer or clerk Gr. III is illegal and not justified and to allow the workman with exemplary costs.

3. The Respondent filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

It is submitted that the workman was initially appointed as Badli filler in the Respondent's company on 4.6.1975 and later he was regularized as coal filler on 7.11.1976 and he has been absorbed as Coal Cutter on daily rated wages in Cat.V pay scale with effect from 1.3.1977. On his request, the workman was allowed to discharge the duties of issuing explosives to the concerned and maintain its account on an acting basis which work is considered clerical in nature. As per the Interim orders dated 25.1.2000 of the Hon'ble High Court of Andhra Pradesh passed in WPMP 1152/2000 in WP No.916/2000 he was allowed to continue as a Clerk from 25.1.2000 to 20.1.2001. It is submitted that subsequently on a strike notice dated 2.12.1996 given by six trade unions, over a charter of demands, discussions were held before the Assistant Labour Commissioner(C)-I, at Hyderabad and one memorandum of settlement was entered between the management and the Trade unions on 31.7.1997 under Sec.12(3) of the Industrial Disputes Act, 1947 wherein the management was agreed to consider the cases of the employees acting as clerks for regularization subject to assessment report and interview. The workman is eligible to be called for an interview, he was called for the interview and he was not considered for absorption as he could not get qualified marks in the interview. It is submitted that the services of Sri P. Ramakrishna were not regularized as he secured only 35.5 marks in the selection held in 1999. But upon his representation, after verification, it was found that he had worked prior to 3.10.1996 at GDK 9 & 9A inclines, and the total service rendered by him as acting clerk was calculated later, he got qualified for regularization as Clerk Gr. II in accordance with the principles laid down in the Memorandum of Settlement dated 31.7.1997. Accordingly, he was appointed as Clerk, Gr.II. It is further stated that though, the workman and some others approached the Hon'ble High Court by filing writ petitions and writ appeals, finally it was directed by the Hon'ble Court that, if they so desire, they are at liberty to raise industrial dispute before the appropriate Forum in terms of Sec.10 of the Industrial Disputes Act, 1947. Hence, the present dispute arose. It is also stated that the management has not forcibly directed the workman to perform the jobs of clerical nature on surface. If the workman really intended to acquire skills and pass statutory examinations, he would have not opted for the post of clerk on surface. The workman had all the Service Linked Upgradation benefits on his substantive post, as Coal Cutter. He was placed, with effect from 1.7.1989 from Cat.V to Cat.VI; with effect from 1.1.1998 from Cat.VI to Gr.C – monthly paid basis; with effect from 1.1.2006 from Gr.C to Gr. B – monthly paid. It is further stated that the juniors of the workman S/Sri, Badam Rajaiah, A Laxminarasaiah, Gujjety Srinivas, Ata Prakash, B. Satyanaryana, S. Emmanuel and Panguluri Ramakrishna got more marks and got qualified in the selection process, thereby they were regularized. In view of the aforesaid averments the Respondent management submitted that the claim made by the Petitioner union is, devoid of any merit and liable to be rejected in limini.

4. Sri Nagunuri Rajaiah, the workman has been examined as WW1 and marked the photostat copies of the documents as Ex.W1 to W26. Sri B. I Vijaya Kumar and Sri R. Satyanarayana, have been examined as MW1 and MW2 respectively and marked the photostat copies of the documents as Ex.M1 to M12.

5. Both the parties have advanced their arguments in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Ramagundam-I Division, Godavarikhani in not regularizing the services of Sh. Nagunuri Rajaiah, Coal Cutter, GDK-2A Inc. as Chit Issuer or Clerk Gr.III is legal and justified?

II. Whether the Workman is entitled for regularization in the post of Chit Issuer Or Clerk Gr. III?

III. If not, to what other relief he is entitled?

7. The Learned Counsel appearing on behalf of the Petitioner contended that the Petitioner was appointed initially as coal filler in the Respondents organization on 4.5.1975 and latter he was designated as Coal Cutter from 1.3.1977. The workman has passed Intermediate and possess the knowledge in typewriting. It is the practice in the Respondent company to call upon the underground mine workers who are working as coal fillers, coal cutters, general Mazdoors who had educational qualifications and can carry out clerical jobs are posted to discharge clerical duties. Accordingly in the month of November, 1988 the Respondent management officials called upon the workman to perform duties as magazine clerk in GDK 1 incline i.e., to issue explosives and maintain record etc.. The workman has been discharging the duties of a clerk from 1988 to 20.6.2000 at GDK No.1 incline and from 21.6.2000 to 19.1.2001 at Rea Hospital, Ramagundam. It is further contended that the Respondent company has utilized the services of the Petitioner as an acting clerk for more than 12 years of on surface and without serving any notice reverted the workman and directed him to discharge the duties of coal cutter in the underground of GDK No.2A incline, illegally and arbitrarily. On receipt of the said order the Petitioner submitted an application on 26.2.2001 to the Director (Personal Assistant & W) SCC Ltd., Kothagudem with a request to provide him any job on surface in any cadre even on reduction category. His representation was not considered for which the workman filed WP No. 4757 of 1991 along with others with the prayer to direct the Respondent to observe the Petitioner/workman as clerk Gr II with effect from the date when he started working as a clerk with all consequential benefits. During the pendency of the writ the Petitioner Union and the Respondent made one settlement under Sec.12(3) of the I.D.Act on 31.7.1997 for which the workman was compelled to withdraw that writ application. As per the terms of the settlement and direction of the Respondent company the workman along with others attended the interview but the workman was not considered to get promotion. Even though some of his juniors were regularized in the service the case of the workman was not considered. Again the workman filed a writ petition before the Hon'ble High Court of A.P., Hyderabad, but the said writ was dismissed. But as per the direction of the Hon'ble Court the Petitioner was allowed to work as an acting clerk. Subsequently after dismissal of the writ petition the workman preferred appeal before the Hon'ble Court which was also dismissed giving liberty to the Petitioner to approach the appropriate forum. Accordingly the Petitioner has raised dispute before the conciliation officer, ALC(C), Mancherial. The Respondent attended the conciliation proceeding but the conciliation was failed and the matter was referred to this Tribunal. It is also submitted that in the interview, the Petitioner was not awarded proper marks, his performance, his service, marks in interview all in total, he was awarded only 35 marks and he was found "low assessment". The Respondent adopted illegal methods and discriminative attitude, so the workman had filed WP No.916 of 2000 along with 10 others questioning the action of the Respondent on the ground that the Respondent company has not considered the acting clerks in terms of the settlement dated 31.7.1997 and proceedings No. P(PM)4/3208/2506 dated 20.2.1999 regularizing the Junior Acting Clerk Services ignoring the Petitioner's claim is bad in law, but the writ was dismissed. In fact the workman has rendered more than 12 years of service as clerk Gr.I, under the Respondent but without considering his case in regularizing him in the post of clerk, the Respondent management reverted him as a coal cutter. The workman is entitled to get promotion. The workman was not given promotion in the line of coal cutter. Had the workman was regularized in the post of clerk, he would have got promotions in that cadre. The workman was deprived of both the channels of promotions by the acts of the management. It is further submitted that the workman is entitled to get regularization in the cadre of clerk and he is also entitled to get all the attendant benefits on par with his juniors. The action of the management in not regularising the workman is bad in Law.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondent has contended that the workman joined in the service of the Respondent initially as badli coal filler. He was regularized as coal filler on piece rated wages with effect from 7.11.1976 and subsequently he was absorbed on daily rated wages as Coal Cutter, on Cat. V wages with effect from 1.3.1977. He has been upgraded subsequently, under Service Linked Upgradation as Coal Cutter Category VI wages with effect from 1.7.1989, and subsequently he has been further upgraded as coal cutter, "C" Grade in the Technical & Supervisory Grade with effect from 1.1.1998 and he was further promoted as coal cutter, "B" grade-Tech. & Supervisory cadre. He was confirmed in his post as "B" Grade coal cutter with effect from 1.9.2006 and he is continuing in that category and post. It is further contended that while working as a coal cutter at GDK 2A Incline, the workman requested the management to provide him with a light job on surface for some time, as he is facing difficulty to discharge his duties as coal cutter under ground. His request was considered and he was allowed to discharge the duties of issuing explosives to the concerned workmen and maintain its account, on an acting basis as and when available. The above works of the workman is considered as in clerical in nature. The workman requested the management to retain him in the post as a clerk, for which he along with another 29 workmen filed WP No.4757 of 1991 before the Hon'ble High Court of A.P., Hyderabad for absorption. While the matter was pending before the Hon'ble High Court by virtue of amicable settlement dated 31.7.1997 one Memorandum of Settlement was prepared under Sec.12(3) of the Industrial Disputes Act, 1947. The settlement was for such employees who are continuing as acting clerks in terms of interim directions of the Hon'ble High Court of A.P., Hyderabad and the same will be

considered subject to withdrawal of their writ petitions. Accordingly, the writ petition was withdrawn. As per the terms of the settlement, one selection committee was constituted for the purpose of selection of the candidates. The workman was called for to attend the interview and attended the interview, and appeared before the selection committee. But he was not come out successful in the merit list, being aggrieved to this the workman filed WP No.916/2000 and similar writ petitions Nos. 38,978 and 1452 of 2000 were also filed by some other workmen before the Hon'ble High Court of A.P., Hyderabad seeking directions to declare the action of the Respondent company in not considering the seniority cum fitness as criteria for regularization of the acting clerks in accordance with the Memorandum of Settlement dated 31.7.1997, and regularising the juniors to the workmen is illegal and arbitrary. The Hon'ble High Court while admitting the writ petition No.916 of 2000 filed by the workman and 9 others granted interim directions vide order dated 25.1.2000 directing the Respondent that if the Petitioners are in service they shall not be removed or disturbed. Finally all the writ petitions were dismissed by a common order. The workman preferred WA No.1048 of 2000 along with 10 others which was also dismissed. The workman has made an allegation before the Hon'ble High Court of A.P., Hyderabad against the Selection Committee. It is contended that as the workman was not qualified in the interview he has not been absorbed as a clerk. The workman has not fulfilled the eligibility criteria to be regularized as a clerk. The terms of Memorandum of Settlement dated 31.7.1997 is applicable to the workman as he was not selected for the post of a clerk, and the workman has to go to his substantive post i.e., coal cutter. It is further stated that the selection was made in order of merit. The workman has not disputed anything against the selection process which has been constituted by the competent authority on 18.12.1997, at any point of time before any authority. It is further contended that the candidates who have secured 37 marks have been absorbed as clerks but the workman could not secure adequate marks for which he was not absorbed. It is also contended that the workman is not entitled to work as a clerk as he does not possess the eligibility criteria and it is not entitled to get any relief.

9. **Point No.I:** On consideration of the rival contentions of both the sides, and on perusal of the evidence (oral and documentary) adduced by both the sides, it is seen that initially the workman was appointed as a badli filler, subsequently he was promoted as coal filler and upgraded to the post of coal cutter and lastly he was confirmed in his post as B Grade coal cutter with effect from 1.9.2006 vide order dated 27.4.2006. As per the admission of the workman he never performed the duties of a coal cutter and as he opted to work as a surface clerk which is a light job, it was given to him. The workman further admitted that as per the settlement dated 31.7.1997 one employee will be eligible for promotion to the post of a clerk subject to assessment report and oral marks in the interview. The workman has admitted that Sri P. Ramakrishna, who has been appointed as a clerk is a degree holder whereas he does not possess any degree. But he has worked for more than 12 years whereas Sri P. Ramakrishna was very junior to him in service. The workman also admitted that he was disqualified by the management in the interview but the reasons best know to them, even though during the course of interview he has replied correctly to all the questions put to him by the members of the interview committee, he was not given proper marks. He clearly admitted that he did not raise any complaint to the Chairman of the company against the irregularities and error committed by the interview board. So also he did not make any complaint in the trade union against the interview board. The evidence of WW1 on his own admission clearly indicates that even though he is a coal cutter he has opted to work as a clerk as it is a light job and as per his request to work on the surface the management has considered it. It is also noticed that even though he has not worked in the under ground as a coal cutter he has been confirmed in the post as a "B" Grade coal cutter getting all promotions. In fact he has not fulfilled the eligibility criteria, to be regularized as a clerk as per the terms and conditions of the Memorandum of Settlement. Even though subsequently the workman has challenged the selection process, no where he has raised any objection about the interview conducted by the selection board. The claim of the workman is that he has been victimized by the Respondent management and the Respondent management has not willfully given him promotion and not regularized him as a clerk. The further claim of the workman is that he was intentionally not given the post of clerk by the management. It is seen that the workman has preferred to work in the surface as a clerk as it is a light job. Even if he has not worked as a coal cutter he has been given promotion to Grade "B" coal cutter and has been given the salary of "B" Grade coal cutter. He has not fulfilled the criteria of the interview. He has also not secured adequate marks in the interview on par with others. But without fulfilling the criteria required for the post of a clerk the workman has demanded to get promotion and to get regularization in the post of a clerk which is not desirable. Thus, the above contention of the workman is not accepted. Therefore, in the given circumstances, it can not be stated that the action of the General Manager, M/s. Singareni Collieries Company Ltd., Ramagundam-I Division, Godavarikhani in not regularizing the services of Sh. Nagunuri Rajaiah, Coal Cutter, GDK-2A Inc. as Chit Issuer or Clerk Gr.III is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In view of the findings given in Point No.I, the workman Sri Nagunuri Rajaiah is not entitled to regularization in the post of chit issuer and also not entitled to get any relief.

Thus, Point Nos. II & III are answered accordingly.

RESULT

In the result, the reference is answered as under:

The action of the General Manager, M/s. Singareni Collieries Company Ltd., Ramagundam-I Division, Godavarikhani in not regularizing the services of Sri Nagunuri Rajaiah, Coal Cutter, GDK-2A Inc. as Chit Issuer or Clerk Gr.III is legal and justified and the workman concerned is not entitled for any relief.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 22nd day of June, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Workman

WW1: Sri Nagunuri Rajaiah

Witnesses examined for the Respondent

MW1: Sri B.I. Vijay Kumar

MW2: Sri R. V. Satyanarayana

Documents marked for the Workman

- Ex.W1: Photostat copy of order of information reg. underground allowance dt.6.6.91
- Ex.W2: Photostat copy of Ir.No.Gdk.1/20-B/90/2046 dt. 13.8.94 reg.acting particulars in r/o Personnel whose services are being utilized as clerks, drivers and electrical supervisors from 1991 to May, 1994.
- Ex.W3: Photostat copy of Ir. dt. 4.6.98
- Ex.W4: Photostat copy of Ir. dt. 5.12.98
- Ex.W5: Photostat copy of Ir. dt. 27.4.2000, assigning duties of magazine clerk
- Ex.W6: Photostat copy of O.O. dt. 9.2/3.1990 upgradation of workman from Gr.V to Gr.VI
- Ex.W7: Photostat copy of promotion letter
- Ex.W7A: Photostat copy of promotion letter
- Ex.W8: Photostat copy of O.O. reg. service linked upgradation dt.1.3.2006
- Ex.W8A: Photostat copy of Ir. of confirmation of Ex.W8 dt. 26/27.10.2006
- Ex.W9: Photostat copy of settlement dt.31.7.1997 u/s 12.(3)
- Ex.W10: Photostat copy of Ir. dt. 20.11.97 from Respondent to workman to withdraw WP in connection with regularization
- Ex.W11: Photostat copy of Ir.dt.30.5.98 interview call letter
- Ex.W12: Photostat copy of interview call letter dt. 28.10.98
- Ex.W13: Photostat copy of order passed in WP No.4757/1991
- Ex.W14: Photostat copy of order passed in WP No.38, 916, 978 and 1452/2000
- Ex.W15: Photostat copy of order passed in WA 1048/2000
- Ex.W16: Photostat copy of representation of workman dt. 23.6.2002 to CMD
- Ex.W17: Photostat copy of representation of workman dt. 23.6.2002 to CMD
- Ex.W18: Photostat copy of representation of workman dt. 23.6.2002
- Ex.W18: Photostat copy of representation of the union to Assistant Labour Commissioner (C), Mancherial dt. 27.5.2002
- Ex.W19: Photostat copy of Ir. of ALC(C) to the Union fixing date of conciliation.
- Ex.W20: Photostat copy of Ir. of Union to ALC(C) dt. 9/10.12.2002
- Ex.W21: Photostat copy of minutes of conciliation proceeding dt.18.11.2003
- Ex.W22: Photostat copy of Ir. No.1/3/2002-ALC/MCL dt. 28.11.2003

- Ex.W23: Photostat copy of reference order No.L-22012/413/2003-IR(CM-II)
 Ex.W24: Photostat copy of representation of WW1 to CMD dt. 31.7.2007
 Ex.W25: Photostat copy of representation of WW1 to CMD
 Ex.W26: Photostat copy of representation of WW1 to CGM dt.14.11.2007/27.8.2008

Documents marked for the Respondent

- Ex.M1: Photostat copy of O.O. No.P.RG.I/62A/822 dt. 9.2/3.1990
 Ex.M2: Photostat copy of O.O. dt.25.3.99 reg. upgradation of the WW1 to Gr.C with effect from 1.7.1989
 Ex.M3: Photostat copy of O.O. dt.25.3.99 reg. upgradation of the WW1 to Gr.3 with effect from 1.1.98
 Ex.M4: Photostat copy of O.O. reg. confirmation of WW1 in Gr.B. dt. 27.10.2006
 Ex.M5: Photostat copy of Memorandum of Settlement u/s 12(3)
 Ex.M6: Photostat copy of order passed in WP No.4757/1991
 Ex.M7: Photostat copy of order passed in WPMP1152/2000 in WP 916/2000
 Ex.M8: Photostat copy of order passed in WP 38,916,978 and 1452 of 2000
 Ex.M9: Photostat copy of order passed in WA 1048 of 2000
 Ex.M10: Photostat copy of order passed in WA. 1048,1152,1153 and 1269 of 2000
 Ex.M11: Photostat copy of Memorandum of Settlement –Unions & management.

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1762.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 14/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.07.2017 को प्राप्त हुआ था।

[सं. एल-22012/207/2012-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1762.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. SCCL and their workmen, received by the Central Government on 13.07.2017.

[No. L-22012/207/2012-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated the 14th day of June, 2017

INDUSTRIAL DISPUTE No. 14/2013

Between :

The President,
 (Shri Bandari Satyanarayana),
 Telengana Trade Union Council,
 H.No.5-295, Indiranagar, Opp. Bus Stand,
 Mancherial. Adilabad Dist. – 504208

...Petitioner Union

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Bellampally Area, Goleti Township -504 292.
Adilabad Dist. – 504208

...Respondent

Appearances :

For the Petitioner : Sri S. Bhagawantha Rao, Advocate

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/207/2012-IR(CM-II) dated 4.12.2012 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Bellampally Area, Goleti Township, Adilabad Dist., in disempanelling Shri Thodasam Lachu, Ex-Coal Filler, Goleti-1 Inc., SCCL, Bellampalli Area with effect from 14.5.2004 is justified or not? To what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 14/2013 and notices were issued to the parties concerned.

2. The Petitioner workman has filed his claim statement and Respondent also filed their respective counter statement.
3. The case stands posted for recording of Petitioner's evidence.
4. In spite of availing several opportunities to adduce evidence, the Petitioner workman remained absent and there is no representation on behalf of the Petitioner union, which clearly indicates that perhaps the dispute of the Petitioner workman has already been settled. In the circumstances stated above, it is felt that the Petitioner workman has got no claim to raise. Thus, 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 14th day of June, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1763.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 25/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.07.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1763.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. SCCL and their workmen, received by the Central Government on 13.07.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated the 16th day of June, 2017

INDUSTRIAL DISPUTE L.C. No. 25/2009

Between :

Sri Bandela Sampath,
S/o B. Rama Swamy,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad

...Petitioner

AND

1. The Chief General Manager,
M/s. Singareni Collieries Company Ltd.,
Ramagundam Area-I, Kothagudem,
Khammam District.
2. The Superintendent of Mines/Colliery Manager,
M/s. Singareni Collieries Company Ltd.,
GDK No.1 Incline,
Kothagudem,
Khammam District

...Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : Sri S.M. Subhani, Advocate

AWARD

Sri Bandela Sampath who worked as Badli filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring proceeding No. RG.I/PER/S/46/7480 dated 13.10.2002 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as Badli Filler on 10.10.2000 and subsequently became regular to his duties. While the matter stood thus, a proceeding RG.I/PER/S/46/7480 dated 13.10.2002 was issued to him by the Respondents, alleging that a charge sheet was issued under company's Standing Order No.25.25 for his habitual absenteeism on duty during the year 2001, which amounts to misconduct and it is also stated that the charge sheet was sent to the Petitioner's house which was returned undelivered, as such a paper advertisement was issued, advising the Petitioner to attend for enquiry and as the Petitioner did not attend the enquiry on the scheduled date, an exparte enquiry was conducted and lastly he was dismissed from service. The Petitioner was undergoing treatment in his

native village and he was not aware of either issuance of charge sheet or any publication made by the Respondents in the newspapers. The Petitioner could have certainly participated in the enquiry, if really he was in receipt of the charge sheet or notice of paper publication. It is stated that the Petitioner was unable to perform his duties regularly during the year 2001 only on account of his ill-health and other family problems, for this he could not attend his duties sincerely, but without considering any of his submissions, the Petitioner was dismissed from service vide office order dated 13.10.2002. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered about 2 years of continuous service in the Respondents' management. He remained absent from duty only on account of his sickness which ought not to have been treated as a serious misconduct. The Petitioner made the above stated submissions before the Respondents but without considering any of his submissions, the Petitioner was dismissed from service vide office order dated 13.10.2002. The Petitioner approached the Respondents to consider his case sympathetically but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. RG.I/PER/S/46/7480 dated 13.10.2002 issued by the Respondents as illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the claim petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner has been dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner had remained absent unauthorizedly from duty without sufficient cause on a number of days and attended four days for duty during the calendar year 2001. A charge sheet was sent to his last known home address as per the procedure as he was not attending for duty, which was returned undelivered. Subsequently, the same was published in Vartha daily newspaper dated 4.4.2002 advising the Petitioner to attend the enquiry fixed on 15.4.2002. The Petitioner neither submitted any explanation to the charge sheet nor attended the enquiry, and as such an exparte enquiry was conducted on 15.4.2002 wherein the charges levelled against the Petitioner were proved. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, he submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving an opportunity to make representation against the findings made in the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Petitioner acknowledged the same and has submitted a representation which was found not satisfactory. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, Respondent No.1 was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition be dismissed in limini.

4. The domestic enquiry conducted in the present case is held as legal and valid vide order dated 29.11.2011.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Bandela Sampath is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to his illness and other family problems, the Petitioner could not be able to attend his duty sincerely. But on account of absenteeism capital punishment of dismissal from service has been imposed on the Petitioner. When the Petitioner has taken a stand that due to illness he could not be able to attend his duties regularly and remained absent, the authority should have considered his case but, without considering any of the submissions of the Petitioner, the authority has passed one cryptic and unreasoned order and has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed

by the Respondents' management is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to illness the Petitioner could not be able to regular in his duty. In fact, due to illness the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the Petitioner did not participate and the charges levelled against the Petitioner were proved. For this, capital punishment has been imposed on him. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the Tribunal and is willing to provide bread and butter to his family members. When he has already realised his mistake atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for about 2 years under the Respondents. When punishment has been imposed, his past conduct has not been considered. While imposing capital punishment to his employees, the management should think of the condition of the worker as well as his family members so also his past conduct. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action of the management in imposing the punishment of dismissal from service to Sri Bandela Sampath is not legal and justified.

Thus Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Bandela Sampath is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the Tribunal with a prayer for reinstatement into service he should be given a chance to serve for his family members. Now, after dismissal of service the Petitioner has become jobless and he being the sole earning member of his family, is unable to provide a square meal to his family members. In such a circumstances, atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But, in the circumstances stated above, the Petitioner is not entitled to get all the relief as claimed in his petition. But the Petitioner is entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. RG.I/PER/S/46/7480 dated 13.10.2002 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Bandela Sampath be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of two years. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to either maintain minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during two years of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 16th day of June, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1764.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 47/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.07.2017 को प्राप्त हुआ था।

[सं. एल-22012/28/2013-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1764.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. SCCL and their workmen, received by the Central Government on 13.07.2017.

[No. L-22012/28/2013-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated the 14th day of June, 2017**INDUSTRIAL DISPUTE No. 47/2013****Between :**

The President,
(Shri Bandari Satyanarayana),
Telangana Trade Union Council,
Indranagar, Opp. Bus Stand,
Mancheria, Adilabad Dist. – 504208

...Petitioner Union

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Sreerampur Area, Sreerampur -504 303,
Adilabad Dist. – 504208

...Respondent

Appearances :

For the Petitioner : Sri S. Bhagawantha Rao, Advocate

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/28/2013-IR(CM-II) dated 23.4.2013 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur Area, Sreerampur, Adilabad Dist., in terminating the services of Sri Velupula Shankar, Ex-Coal Filler, IK-1 Inc., SCCL, Sreerampur Area with effect from 07.02.2004 is justified? If not, to what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 47/2013 and notices were issued to the parties concerned.

2. The Petitioner workman has filed his claim statement and Respondent also filed their respective counter statement.
3. The case stands posted for recording of Petitioner's evidence.
4. In spite of availing several opportunities to adduce evidence, the Petitioner workman remained absent and there is no representation on behalf of the Petitioner, which clearly indicates that perhaps the dispute of the Petitioner has already been settled. In the circumstances stated above, it is felt that the Petitioner workman has got no claim to raise. Thus, 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 14th day of June, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1765.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आईसीएसआईआर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, दिल्ली के पंचाट (संदर्भ सं. 72/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.07.2017 को प्राप्त हुआ था।

[सं. एल-42012/260/2005-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1765.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 72/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Delhi as shown in the Annexure, in the Industrial Dispute between the management of M/s. ICSIR and their workmen, received by the Central Government on 14.07.2017.

[No. L-42012/260/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, KARKARDOOMA COURT COMPLEX, DELHI

ID.No.72/2006

Sh. Ved Ram,
S/o Sh. Khema,
C/o 228, Ali Ganj,
Kotla Mubarakpur,
New Delhi-110003.

Versus

The Director General,
Indian Council for Scientific & Industrial Research,
2, Rafi Ahmed Marg,
New Delhi-110001

AWARD

Reference No. L- 42012/260/2005-IR(CM-II) dated 17.08.2006 sent by Ministry of Labour of Government of India to this Tribunal for adjudication of following question:

“Whether the action of the management of CSIR in terminating the services of Sh. Ved Ram w.e.f 23.11.2001 is legal and justified? If not, to what relief is the workman entitled?”

On 1.09.2006 reference was received in this Tribunal. Which was register as I.D No. 72/2006 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

On 13.02.2007 workman filed claim statement before this Tribunal. Where-in he prayed as follows:-

“It is therefore, prayed to this Hon’ble Court that the respondent may be ordered to regularized the petitioner as their permanent employee with the equal pay scale in the interest of justice.”

After service of notice management filed written statement on 23.10.2007. Where-in management prayed as follows:-

“It is respectfully prayed that the present Dispute may be dismissed with cost in favour of Respondent and against Petitioner.

Against written statement workman filed rejoinder. Wherein he re-affirmed the contents of claim statement.

My Ld. Predecessor has not framed any issue and proceed to decide on the basis of questions of determination.

Workman in support of his case produce himself as WW1. Management in rebuttal produce Ms. Vandana Digvijay Singh as MW1.

Ld. A/Rs for the parties orally argued and file written arguments.

In the light of contentions and counter contentions I perused the pleadings and evidence of the parties on record including their written arguments.

Perusal of which makes it crystal clear that respondent CSIR had awarded contract to contractors to provide man power to the respondent CSIR.

It is also apparent that respondent CSIR never employed the workman Sh. Ved Ram.

Moreover workman Sh. Ved Ram has not given any evidence to support that he was employed by the respondent CSIR or was ever paid by the respondent CSIR.

Hence reference of workman Sh. Ved Ram is liable to be decided against him and in favour of management/respondent CSIR and others .

Which is accordingly decided and claim statement is dismissed.

Award is accordingly passed.

Dated:5.6.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1766.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 40/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.07.2017 को प्राप्त हुआ था।

[सं. एल-22012/73/2012-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1766.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. SCCL and their workmen, received by the Central Government on 13.07.2017.

[No. L-22012/73/2012-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated the 13th day of June, 2017

INDUSTRIAL DISPUTE No. 40/2012

Between :

Sri Gaddam Komaraiah,
Ex-CF, KTK-3 Inc.,
H.No.13-181, Subash Colony,
Bhupalapalli, Warangal Distt-506169

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Bhupalapally Area, Bhupalapally,
Warangal Dist. – 506169

...Respondent

Appearances :

For the Petitioner : M/s. M.V.L. Narasaiah & V.Venkateshwar, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/73/2012-IR(CM-II) dated 20.7.2012 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the management of the Chief General Manager, M/s. Singareni Collieries Company Ltd., Bhupalapalli Area, Warangal Dist., in terminating the services of Sri Gaddam Komaraiah, ex-Coal Fiuller, KTK-3 Incline, with effect from 14.6.2007 is justified or not? To what relief the applicant is entitled for?

The reference is numbered in this Tribunal as I.D. No. 40/2012 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement and documents by the Petitioner.
3. In spite of availing several opportunities to file claim statement, the Petitioner was absent. Claim statement was not filed, and there is no representation on behalf of the Petitioner. In spite of receipt of notice the Petitioner is found absent, which clearly indicates that perhaps the dispute of the Petitioner has already been settled. In the circumstances stated above, it is felt that the Petitioner has got no claim to raise. Thus, a ‘No dispute’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 13th day of June, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1767.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 21/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.07.2017 को प्राप्त हुआ था।

[सं. एल-22012/181/2013-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1767.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. SCCL and their workmen, received by the Central Government on 13.07.2017.

[No. L-22012/181/2013-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated the 12th day of June, 2017**INDUSTRIAL DISPUTE No. 21/2014****Between :**

The President,
(Shri Bandari Satyanarayana),
Telengana Trade Union Council,
H.No.5-295, Indiranagar, Opp. Bus Stand,
Mancherial. Adilabad Dist. – 504208

...Petitioner Union

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Ramagundam-I Area, Godavarikhani-505209
Karimnagar Dist.

...Respondent

Appearances :

For the Petitioner : None

For the Respondent : M/s. V.S.V.S.R.K.S. Prasad, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/181/2013-IR(CM-II) dated 28.1.2014 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Ramagundam-I Area, Godavarikhani, Karimnagar Dist., in terminating the services of Sri Bandari Shankaraiah, Ex-Coal Filler GDK-5A Inc., SCCo. Ltd., Godavarikhani w.e.f. 17.8.2010 is justified or not? If not, to what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 21/2014 and notices were issued to the parties concerned.

2. The case stands posted for filing of claim statement and documents by the Petitioner.
3. In spite of availing several opportunities to file claim statement, either the workman or the representative of the Petitioner union remained absent. Claim statement was not filed, and there is no representation on behalf of the Petitioner union to pursue the matter. In spite of receipt of notice either the Petitioner Union or the workman is found absent, which clearly indicates that perhaps the dispute of the workman has already been settled. In the circumstances stated above, it is felt that the Petitioner has got no claim to raise. Thus, a ‘No dispute’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 12th day of June, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1768.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 94/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 13.07.2017 को प्राप्त हुआ था।

[सं. एल-22012/107/2013-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1768.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 94/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. SCCL and their workmen, received by the Central Government on 13.07.2017.

[No. L-22012/107/2013-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated the 15th day of June, 2017**INDUSTRIAL DISPUTE No. 94/2013****Between :**

The President,
(Shri Bandari Satyanarayana),
Telengana Trade Union Council,
Indranagar, Opp. Bus Stand,
Mancherial, Adilabad Dist. – 504208

...Petitioner Union

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area, Mandamarri-504 231.
Adilabad Dist.

...Respondent

Appearances :

For the Petitioner : M/s. S. Bhagawantha Rao & S. Rama Devi, Advocates

For the Respondent : Sri V.S.V.S.R.K.S. Prasad, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/107/2013-IR(CM-II) dated 3.9.2013 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Mandamarri Area, Mandamarri, Adilabad Dist., in terminating the services of Sri Nakka Sailu, Ex-Coal Filler, KK-5 Inc., SCCo. Ltd., Mandamarri Area, SCCo Ltd., Mandamarri Area with effect from 04.01.2001 is justified or not? If not, to what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 94/2013 and notices were issued to the parties concerned.

2. The Petitioner workman has filed his claim statement and Respondent also filed their respective counter statement.
3. The case stands posted for recording of Petitioner's evidence.
4. In spite of availing several opportunities to adduce evidence, the Petitioner workman remained absent and there is no representation on behalf of the Petitioner, which clearly indicates that perhaps the dispute of the Petitioner has already been settled. In the circumstances stated above, it is felt that the Petitioner workman has got no claim to raise. Thus, 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 15th day of June, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1769.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 43/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.07.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1769.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. SCCL and their workmen, received by the Central Government on 13.07.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated the 16th day of June, 2017

INDUSTRIAL DISPUTE L.C. No. 43/2009

Between :

Sri Sk. Mahaboob,
S/o Sk. Jani,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Srirampur Area, Srirampur
Adilabad District.
2. The Superintendent of Mines,
M/s. Singareni Collieries Company Ltd.,
RK-7 Incline, Srirampur Area, Srirampur,
Adilabad District

....Respondents

Appearances :

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : Sri M.V. Hanumantha Rao, Advocate

AWARD

Sri Sk. Mahaboob who worked as Coal Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. SRP/PER/13.008/5545 dated 17.11.2003 issued by Respondent No.1 as

illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed on 27.4.2002 by the Respondents management as Badli Filler. The Petitioner was unable to bear the hectic weather conditions under the mine and fell sick during the year 2002. While the matters stood thus, charge sheet dated 3.5.2003 was issued to the Petitioner by the Respondents alleging that the Petitioner absented for duty during the year 2002, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted, and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, a show cause notice dated 14.6.2003 was issued to the Petitioner and the Petitioner's name was removed from services vide office memo No. SRP/PER/13.008/5545 dated 17.11.2003. It is stated that during the course of the enquiry the Petitioner has categorically stated that his inability to perform his duties regularly during the year 2002 was only on account of his ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered good service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. SRP/PER/13.008/5545 dated 17.11.2003 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 27.4.2002 as Badli Filler. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view, and lastly, the Respondents were constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. The domestic enquiry conducted in the present case is held as legal and valid vide order dated 27.5.2013.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Sk. Mahaboob is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. The authority has not considered any of the

submissions of the Petitioner, and has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 33 years, he is now aged about 40 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondents, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than a year under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Sk. Mahaboob is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Sk. Mahaboob is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service and has approached this Tribunal after more than five years. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. SRP/PER/13.008/5545 dated 17.11.2003 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Sk. Mahaboob be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of two years. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during two years of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 16th day of June, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1770.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफसीआई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट वाद संख्या 6/2015 (संदर्भ सं. 138/97 के तहत) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.07.2017 को प्राप्त हुआ था।

[सं. एल-22012/170/1996-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1770.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Complaint No. 6/2015 (Arising out of Ref. No. 138/97) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. FCI and their workmen, received by the Central Government on 19.07.2017.

[No. L-22012/170/1996-IR (C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1), DHANBAD**

IN THE MATTER OF A COMPLAINT U/S 33(A) OF I.D. ACT, 1947

COMPLAINT NO. 06/2015

(Arising out of Ref. No. 138/1997)

Ministry Order No. L-22012/170/1996-IR(C-II)

Tripurari Sharan Jamiyar , Ex-manager (D) FCI

...Complainants

Vrs

Executive Director , (E) FCI, 10 A Middleton Row, Kolkata

...Opposite party

Present : Sri Ranjan Kumar Saran, Presiding Officer**Appearances :**

For complainant : Shri V. Kumar , Rep

For opposite party : Shri O.P. Singh , DGM (G)

State : Jharkhand

Industry : Food

Dated 14/06/2017

AWARD

2. That this complaint is filed by the complainant U/S 33A and 33 (1) of I.D Act. After receipt of the complaint , both parties are noticed. But after appearing for certain dates representative of complainant files a petition and submits that he does not want to contest the reference and want to withdraw the same. Hence he is permitted to withdraw the same. Therefore it is felt that the dispute between parties have been resolved in the meantime. Hence pass an award of No.Dispute accordingly.

R. K. SARAN, Presiding Officer

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1771.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गलफ एअर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 2/48 ऑफ 2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.07.2017 को प्राप्त हुआ था।

[सं. एल-11012/9/2011-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1771.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/48 of 2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in Annexure, in the industrial dispute between the management of M/s. Gulf Air and their workmen, received by the Central Government on 10.07.2017.

[No. L-11012/9/2011-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M. V. DESHPANDE, Presiding Officer

REFERENCE NO. CGIT-2/48 of 2011

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

GULF AIR

The Commercial Manager (India & Sri Lanka)
Gulf Air
Maker Chambers V, Ground floor
Nariman Point
Mumbai-400 021.

AND

THEIR WORKMEN

Shri Naresh Yadgiri Kamuni
Room No.5
Bhagirthibai Dadu Pawar Chawl
Waras Lane
Worli Koliwada
Mumbai-400 030.

APPEARANCES:

FOR THE EMPLOYERS : Mr. G.S. Desai, Advocate

FOR THE UNION : Mr. Umesh Nabar, Advocate

Mumbai, dated the 9th May, 2017

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-11012/9/2011-IR (CM-I), dated 30.08.2011 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of M/s. Gulf Air, Mumbai in terminating the services of Shri Naresh Yadgiri Kamuni, Messenger-cum-Peon by way of retrenchment with effect from 02.03.2010 is legal, just and proper? To what relief the workman concerned is entitled to ?”

2. After receipt of the Reference, notices were served on both the parties. Second party Workman filed his Statement of Claim vide Ex-7. First party resisted the Statement of claim of Workman by filing their Written Statement (Ex-8). My Ld. Predecessor framed issues at Ex-10. Thereafter matter was fixed for recording evidence by Workman.

3. Today both parties appeared before this tribunal along with their respective legal representatives and prayed to dispose of the Reference as settled in terms of Consent Terms (Ex-18). Orders were passed on Ex-18. Accordingly I pass the following order:

ORDER

Reference is disposed of in terms of consent terms (Ex-18).

Date: 09.05.2017

M. V. DESHPANDE, Presiding Officer/Judge

Ex-18

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2

Ref. CGIT-2/48 of 2011

BETWEEN :

M/S. GULF AIR COMPANY

AND

THEIR WORKMAN, MR. NARESH KAMUNI

CONSENT TERMS

MAY IT PLEASE THE HON'BLE TRIBUNAL

The parties above named state and submit as under:

The parties submit that the matters in dispute are amicably settled between the parties on the following terms and conditions.

1. The first party company agrees to pay an amount of Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand only) by way of Cheque No.503462 dt. 6/5/2017 drawn on Standard Chartered Bank to the second party workman on the date of signing of this consent terms in full and final settlement of all his claims and demands against the first party company as contained in the Reference (CGIT) no.48 of 2011.
2. The second party workman agrees to accept the above amount of Rs.3,50,000/- from the First part company in full and final settlement of all his dues and claims including but not limited to the claims/ demands made by him in the above Reference (CGIT) No.48 of 2011.
3. The Second party workman hereby declares that upon receipt of the amount of Rs.3,50,000/- from the First party company he shall have no claim of whatsoever nature against the first party company and that all his demands, disputes including but not limited to back wages, bonus , leave salary, gratuity, reinstatement, re-employment, arrears in wages if any etc. against the first party company have been fully and finally settled and satisfied.
4. It is agreed that the total amount of Rs.3,50,000/- payable to the second party workman is paid to him towards his arrears of wages, leave salary, bonus, gratuity etc so as to spread over from the date of termination i.e. 2nd March 2010 till the date of signing this consent terms. Thus, income tax is not required to be payable on this amount of Rs.3,50,000/- as covered by Section 10 (10) and Section 89 of the Income Tax Act, 1961 and any other applicable provisions of the Income Tax Act 1961.
5. It is agreed that the amount paid under this consent terms shall not constitute wages for the purpose of Provident Fund and ESI or other Statutory contribution because the second party workman has not worked and earned any wages.

6. The parties hereby request this Hon'ble Tribunal to dispose of the above Reference as settled in terms of this Consent Terms.

Signed at Mumbai this 9th day of May, 2017.

For Gulf Air B.S.C. (c)

Sd/-

(Mir Jabir Ali)

Country Manager India

Sd/-

(Naresh Y. Kamuni)

Submitted by:

Sd/-

(G.S. Desai)

Adv. for First party Company

Sd/-

(Umesh Nabar)

Adv. for Second party Workman

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1772.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जैट एअरवेज इण्डिया लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 2/25 ऑफ 2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.07.2017 को प्राप्त हुआ था।

[सं. एल-11012/6/2008-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1772.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/25 of 2008) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in Annexure, in the industrial dispute between the management of M/s. Jet Airways (I) Ltd. and their workmen, received by the Central Government on 10.07.2017.

[No. L-11012/6/2008-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M. V. DESHPANDE, Presiding Officer

REFERENCE NO. CGIT-2/25 of 2008

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

JET AIRWAYS (INDIA) LIMITED

The General Manager
Jet Airways (India) Limited,
S.M. Centre,
Andheri-Kurla Road,
Mumbai-400 059.

AND

THEIR WORKMEN

Mr. Rajaram Narayan Gonela,
3rd Kamathipura, Building No. 60,
3rd Lane, Room No. 8,
Mumbai-400 008.

APPEARANCES :

FOR THE EMPLOYER : Ms. Pooja Kulkarni, Advocate.

FOR THE WORKMEN : Mr. M.B. Anchan, Advocate.

Mumbai, dated the 4th May, 2017

AWARD

1. The Government of India, Ministry of Labour & Employment by its Order No.L-11012/6/2008-IR (CM-I) dated 28.04.2008 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of Jet Airways (India) Ltd., Mumbai in dismissing the services of Shri Rajaram Narayan Gonela, Loader-cum-cleaner, w.e.f. 26.6.2007 is justified and legal? If not, to what relief is the concerned workman entitled to ?”

2. After receipt of the reference, notices were issued to both the parties. In response to the notice, the second party workman filed her statement of claim at Ex-5.

3. It appears that second party workman has joined the services of first party company w.e.f. 7.11.1996 on the post of Loader-cum-cleaner in their Customer Service Department. He has been confirmed in service of the first party company vide letter dated 16.6.1998. Admittedly he was arrested by airport police on 14.12.2001 on the allegations of theft of Rs.7000/- from the baggage of one Shri Krishnamoorthy. He was kept in custody for 7 days and thereafter he was released on bail. He was acquitted by Metropolitan Magistrate Andheri by order dated 28.3.2007 in CC No. 205/P/2002.

4. It is the case of concerned workman that during the course of criminal trial his Airport Entry Pass was confiscated by the airport police station and therefore he could not report for duty after released on bail on 19.12.2001. After release on bail he had approached Mr. Goplakrishnan, H.R. Administrator of first party company vide his letter dated 13.12.2001 and narrated the entire facts and also told that he wanted to resume his duty. He requested the first party company that considering the facts and circumstances he should be paid his wages for the period for which he was not allowed to resume duties but no reply was given by the company. He along with union office bearers had met Shri Gopalkrishnan and Mr. Hariharan of the first party company and during the meeting the said executives of the first party company assured that he can join the duty only after the case is over and / or the police returns the Airport Entry Pass and till that time the second party workman shall be paid wages. He was paid his wages till April 2003 but since police has not returned Airport Entry Pass, first party company was not prepared to take him back on duty without such pass and therefore he had no option but to wait till criminal trial is over. After the trial he was acquitted and then he approached the first party company with the letter dated 14.3.2007 and requested them to allow him to resume his duties but the same was not considered by the first party company.

5. According to the concerned workman, he was issued with charge-sheet dated 23.2.2007 by the first party company. In the charge-sheet, the management has alleged the charge of habitual absence without leave or absence without leave for more than 10 consecutive days or over-staying the sanctioned leave without sufficient grounds and commission of act of subversive of discipline or good behavior. As per the charge-sheet the concerned workman was allegedly remained absent unauthorisedly without any sanction or permission of his supervisor w.e.f. 12.12.2001. The enquiry was conducted.

6. According to the concerned workman, the Inquiry officer has not given opportunity to the concerned workman to defend the charges. The management has not given him list of witnesses and the documents along with charge-sheet. The Inquiry officer has not conducted the enquiry in the language known to him. The witnesses examined by the first party company have not been offered for cross-examination by the concerned workman. He was not paid the subsistence allowances during the pendency of disciplinary action. As such the enquiry conducted by the Inquiry Officer is not fair & proper. The findings of the Inquiry officer are perverse. The non-payment of subsistence allowance during the course of enquiry amounts to illegal enquiry. The Inquiry officer has totally ignored the evidence of second party workman. He was not allowed to bring his witnesses in the enquiry. He was not given reasonable chance to defend the charges in the enquiry and therefore the punishment of terminating his service by way of dismissal by the management is disproportionate punishment. Therefore, the dispute was raised before the Conciliation officer. Conciliation failed and the matter has been referred for adjudication. The concerned workman is therefore asking to declare that the action of management in terminating his services is improper, illegal and amounts to unfair labour practices and to quash and set aside the dismissal order dated 26.6.2007 and to reinstate him with continuity of service and back wages.

7. First party company resisted statement of claim by filing the written statement (Ex.7). It is the contention of the first party company that the concerned workman did not take steps to recover the Airport Entry Pass which was seized by the Airport police. Since his arrest the workman remained absent from duty in an unauthorized manner. The competent authority therefore initiated disciplinary proceedings against the workman. Charge-sheet dated 23.2.2007 was issued to the workman. The workman replied the same. The competent authority was not satisfied with his reply and the departmental enquiry was conducted against the workman. The workman fully participated in the departmental enquiry through defence representative of his choice. Inquiry officer conducted the departmental enquiry in accordance with the principles of natural justice. The enquiry was conducted in Marathi. The workman has recorded his no objection for recording the proceedings of the enquiry in English for administrative convenience. However, the Inquiry officer explained the procedure of enquiry to the workman. He explained the contents of each day proceedings to the concerned workman in Marathi. The workman signed the enquiry proceedings after the contents of the same were explained to him in Marathi. Copies of the documents relied upon by the management were duly supplied to him. The management examined 3 witnesses in presence of workman and his defence representative. Inquiry officer offered the said witnesses for cross-examination by the workman and his defence representative. However, they declared not to cross-examine any of the witnesses. The workman recorded his statement before the Inquiry officer by giving the same in his writing. In the cross-examination the workman has admitted all the facts. He has admitted that the management had not issued to him any letter preventing him from reporting from duty. He admitted that he did not take steps to recover the Airport Entry Pass from police. After cross-examination the workman and his defence representative declared that they did not want to examine any further witnesses. So according to the management the action of management is fully consonance and in accordance with the principles of law, equity and good conscience.

8. It is contention of the management that the punishment imposed upon the workman is bonafide and in accordance with the well settled principles of law and principles of natural justice. Every opportunity was given to the workman in taking disciplinary action against him. As such the charges leveled against the workman are duly proved by cogent and relied evidence. The findings of the report of the Inquiry officer are proper. The management has sought the rejection of the reference.

9. Following issues were framed at Ex.8. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
1.	Whether the inquiry by the management of Jet Airways (India) Ltd., Mumbai against Shri Rajaram Narayan Gonela, Loader-cum-cleaner, is fair and proper?	Yes
2.	If yes, whether the punishment of dismissing Shri Rajaram Narayan Gonela, from the service is adequate ?	Yes
3.	What relief the workman is entitled to ?	As per final order
4.	What order ?	As per final order

REASONS

Issue No.1 & 2 :

10. At the outset, it may be stated that the concerned workman has filed affidavit Ex.11 but remained absent and he was not available for cross examination. No cross order is passed and the evidence of the workman stood closed as per the order on Ex.11. Thereafter the management has filed affidavit of one Tejashri Kumar, Dy. General Manager [H.R.] with the management but the concerned workman remained absent. His advocate has withdrawn his Vakalatnama hence there was no cross to management witness on behalf of the concerned workman. As such the evidence of the management has gone unchallenged. As such there is no evidence on behalf of the concerned workman to substantiate his claim and to prove that the enquiry was not fair and proper and that no sufficient opportunity was given to him to defend himself.

11. On the contrary, evidence of the management witness has gone unchallenged which clearly shows that there were numerous complaints against the concerned workman and ultimately he was arrested by the police on 14.12.2001 for theft of Rs.7000/- from the baggage of one Shri Krishnamoorthy. Admittedly, he was in custody for about 7 days and released on bail on 19.12.2001. Admittedly since 19.12.2001 he remained absent on duty. He did not make efforts

for obtaining Airport Entry Pass from the concerned police station. It is also clear from the evidence of the management that concerned workman remained absent from duty in an unauthorized manner and therefore the enquiry was conducted wherein full opportunity was given to the concerned workman to defend himself through his defence representative and even the proceedings of the enquiry were explained to him in Marathi and he signed the enquiry proceedings only after the contents of the same were explained to him in Marathi.

12. Even it appears from the evidence of the management that during enquiry proceedings management has examined 3 witnesses in presence of the concerned workman and his defence representative and the witnesses were offered for cross examination by the concerned workman and his defence representative but they declared not to cross examine him. It appears that during the enquiry proceedings the concerned workman has admitted that he did not make enquiry as to how to obtain the Airport Entry Pass. Considering his admission during the enquiry proceedings, the Inquiry officer held him guilty of charges leveled against him and submitted the report and findings to the competent authority. The competent authority after going through material on record imposed punishment of dismissal upon the workman.

13. So from the evidence of the management, it is clear that the action of the management is fully in accordance with the principle of law. The full opportunity was given to the concerned workman to defend himself and then in view of admission by himself the findings of the Inquiry officer are based. So the findings of the Inquiry Officer are certainly based on evidence.

14. Learned Counsel for the management submitted that the affidavit of concerned workman cannot be read in evidence as he did not offer himself for cross examination. Submission is to the effect that the evidence produced by the management documentary as well as oral is completely unchallenged.

15. Next submission of the Learned Counsel for the management is that the acquittal of the concerned workman in criminal trial conducted against him will not give any immunity to concerned workman. The departmental enquiry against the concerned workman was held on different charges which is in respect of absenteeism and those charges have been proved by the management.

16. Learned Counsel for the management refers to the copies of the enquiry proceedings at Pg. 126 to submit that the charge-sheet was issued to the workman and he replied the said. The enquiry was conducted in Marathi and was recorded in English for administrative convenience. The Inquiry officer explained the procedure of enquiry to the workman. The workman has not raised any grievance in that respect. He has signed each and every page of enquiry proceedings in token of having knowledge of contents of the proceedings. Copies of documents were supplied to the workman. Management examined the witnesses and Inquiry officer offered the said witnesses for cross-examination by the workman. Workman admitted that he did not take steps to recover his Airport Entry Pass from the police. So on the basis of enquiry proceedings, the submission is that the enquiry was fair & proper and findings of the Inquiry officer are based on evidence.

17. As regards the punishment imposed upon the concerned workman, it is submitted that the punishment is proper which has been imposed by the competent authority after considering the entire record and the antecedence of the concerned workman. The employer is certainly required to take all the reasonable steps to maintain the discipline in its Organisation and in view of that the punishment has been imposed which needs no interference.

18. In my considered view, considering all these facts, I find that the enquiry held against the concerned workman Shri Rajaram Narayan Gonela is fair and proper. Findings are not perverse and in view of this even the punishment of dismissing the concerned workman is proportionate to his misconduct. Both the above issues are therefore answered accordingly as indicated against each of which in terms of above observations.

Issue No. 3 & 4 :

19. In view of my findings to the above issues, the workman is not entitled to any relief. The reference is liable to be rejected. Thus the order.

ORDER

The reference is rejected with no order as to costs.

Date: 04/05/2017

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1773.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओएनजीसी लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 175/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.07.2017 को प्राप्त हुआ था।

[सं. एल-30012/59/1998-आईआर (सी -I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1773.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 175/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in Annexure, in the industrial dispute between the management of M/s. ONGC Limited and their workmen, received by the Central Government on 10.07.2017.

[No. L-30012/59/1998-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 27th April, 2017

Reference: (CGITA) No. 175/2004

In

Reference (ITC) No. 76/1999

The Group General Manager (P),
ONGC Ltd., Chandkheda,
Ahmedabad (Gujarat)

...First Party

V/s.

Workmen employed under it
Through General Secretary,
Gujarat Labour Union,
3/24, Ellora Commercial Center,
B/h. Relief Cinema, Ahmedabad

...Second Party

For the First Party : Shri K.V. Gadhia & Shri M.K. Patel

For the Second Party : Shri H.K. Acharya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/59/98-IR(C-I) dated 15.03.1999 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Kya Gujarat Labour Union ka Manna ki ONGC Ltd. ke Ahmedabad Project ke antargat Serthastith canteen mines adhiniyam, 1952 ke antargat ek statutory canteen hai, sahi hai?”

Yadi ha to union ki yeh mang ki Shri Baldev T. Parmarevam suchi me paye gaye any Karmkaro ko ONGC ka siddha Karmakar Mana jaye, nyayochit hai?”

Yadi ha to sambandhit karmakar kis rahat ke patra hai?”

From the above terms of reference it is transpired that the Ministry has referred the Reference concerning 15 workers.

1. The reference dates back to 15.03.1999. After the reference sent by the Appropriate Government the Tribunal issued notices vide Exh-2 to the respective parties and in pursuance to the same parties to the reference appeared before the Tribunal and filed their pleadings. Vide Exh-26 the Union has filed the Statement of Claims and IR Application vide Exh-9. It is pertinent to note that the said IR Application was signed by only four workers whereas Statement of Claims was signed by Nine Workers. The union has filed the appearance/Vakalatpatra vide Exh-7. The said Vakalatpatra was also signed by only four workers. The Tribunal has initially granted the Interim Relief which was subsequently not pressed by the advocate of the union on 09.01.2001. The union has filed another vakalatpatra vide Exh-25 which contains the signature of Nine workers. In the statement of claims the union has stated that the concerned workers were started work in the canteen firstly with contractor one Hirabhai Thakorbbhai and thereafter Y.K. Patil was substituted as the contractor. These workmen have been working under the said contractor. Earlier they also filed the SCA 1966/1996 and LPA 589/1996 wherein the Hon'ble High court directed the second party to approach the Labour Machinery under the I.D. Act and accordingly they raised the present dispute. They have stated that the first party has closed down the canteen at Sertha. They have further stated that the Mines Act is applicable to the Sertha project and to run the canteen facility is an obligatory duty. It is also stated that material is brought from outside to CMP Saij and the same is sent to different wells by pipeline. It is averred that considering the process carried out, the said project is covered under the Mines as well as the Factories Act. In these circumstances, the Union has prayed for wages with all emoluments at par with the wages paid to Class 4 employees of ONGC. It is also alleged that despite of change in contractors from time to time, the concerned persons/workmen were permitted to continue in the said canteens. The union has further stated that supervision, maintenance and repair of the canteen is carried out by ONGC. It is also stated that the company is under obligation to provide canteen facility to its employees and it is part and parcel for efficient working of the ONGC. It is also stated that the workers working in canteen are under direct control and supervision of the ONGC and they are working continuously since long. The Union has further alleged that the ONGC appointed a Committee to look after the work of the canteen and that the employees of ONGC could complaint against the working of the canteen and the committee was empowered to take steps against the contractor. The second party has also stated that furniture, appliances utensils etc. was provided by the ONGC. In short the Union has tried to establish that the canteen was mandatory as per the provisions of the Act, the premises belong to ONGC, the supervision and control on the same was of ONGC and the facilities were also provided by ONGC. The union has also relied upon various decisions in the Statement of Claims. Surprisingly there is no prayer clause in the statement of claims.

2. The ONGC has appeared filed its Written Statement vide Exh- 35 and denied the averments made in the Statement of Claims. The ONGC has also stated that the terms of reference are vague and that the reference is barred by delay and laches. The ONGC has also stated that it is not obligatory on the ONGC to run the canteen but by virtue of SCA no. 1966/1996 and thereafter LPA No. 589/1996, preferred by the Second party and subsequent stay granted by the Tribunal, the ONGC had no alternative but to continue with the facilities of canteen. The ONGC has further stated that ONGC is governed by the Mines Act, 1952 and there is no provision under the Mines Act to provide canteen to its Employees. It is further submitted that the Chief Inspector of Mines as required under the Mines rules has never notified to the ONGC to have a canteen at Shertha. Hence there is no statutory and obligatory duty of the ONGC to run canteen at Shertha. The ONGC has also relied upon judgment of the Apex Court in case of State Bank of India vs. State Bank of India Canteen Employees Union in support of its submissions. The ONGC has further stated that it is bound to follow the procedure laid down in the Regulations for making regular recruitment and since such procedure is not followed in the instant case, no relief can be granted to second party. In this premise, the ONGC has prayed for rejection of the Reference.

3. In the present proceedings, the Second party has examined one of the concerned persons namely Mr. Subhash Ellapa vide Exh. 40. In the chief examination he has stated he was working since last 11 years as a Cook and was getting Rs. 600/- p.m. he has also stated that his work was supervised by the member of ONGC Committee and that he had to work as per the instructions of the ONGC. It is also stated that he had to take leave from ONGC and salary was paid by officers of the ONGC. He has also stated that Identity card and attendance card were not given. It is also stated that there are around 800-1000 employees in the field and there is no canteen facility in the field or in the village. The premises of the canteen are of the ONGC and the rates of snacks etc. are also decided by ONGC. Furniture, light, gas supply etc. are also provided by the ONGC. He has mentioned the nature of work of each concerned workman. He has also stated that certain workers have been regularized in Chandkheda, Baroda, Ankleshwar and Mehsana. He has lastly stated that they have prayed for permanency/ regularisation in ONGC canteen.

4. In the cross examination, the witness has admitted that One of the orders has been challenged and the same is stayed. He has also admitted that they had also approached the Hon'ble High Court but he is not aware of the outcome of the same. He has admitted that he does not know the date of joining and educational qualifications of the each and every other person/workmen and he does not have any proof thereof. He has admitted that the ONGC has never given any show cause notice to them. He has also admitted that he was not given any appointment letter and that he has never visited canteens situated at Mehsana, Baroda and Ankleshwar. No other witness was examined by the second party union.

5. The First Party has examined one witness vide Exh. - 44 namely, Subhash B. Burman. In chief examination, he has stated that he is working with ONGC from 05.09.78. He has stated that he is working at Ahmedabad from Aug. - 1999 as Dy. Manager (P & A). He has stated that the workers working in the Saij Canteen have neither been employed nor were paid by the ONGC. He also stated that Mines Act and Factories Act are not applicable to the ONGC. He has further stated that Chief Inspector of Mines has not given any instructions to provide canteen facilities. He has also stated that there is a recruitment policy to appoint any employee in ONGC and the concerned persons were not appointed as per the said policy.

In the cross examination, the witness has stated that there are 2 sections in ONGC, Saij and officers of ONGC, Chandkheda also used to visit the said place. He has admitted that the premises of canteen belong to ONGC and furniture etc. is also of ONGC. He also admitted that normally the employees of ONGC use the canteen facilities. However, he has stated that tea-snacks- lunch etc. is provided in the canteen and the rates of the same are decided by the contractor. He has also denied that there are no recruitment rules for class-IV employees in ONGC and stated that the said rules are in place since the inception of the ONGC. Thus it may be inferred that the said persons were being never appointed or paid by the ONGC. The averments regarding non-applicability of the Factories Act and no instructions being given by Chief Inspector, Mines etc. are not controverted in the cross-examination, therefore, the same are to be believed to be true.

6. During the proceedings subsequent to oral evidence by the first party, an application was moved by the First Party vide Exh. - 51 in which it was stated that there have been new developments in the matter after the deposition of the witness. It is further stated in the said application that considering the new developments, Affidavit at Mark 51/1 be taken on record and alternatively prayed for reopening the stage of chief examination of the said witness. The said application was opposed by the union and after hearing the parties, my Predecessor has allowed the application at Exh. - 51 and ordered to take the Affidavit Mark 51/1 on record. The Union was also given opportunity to cross examine the said witness on addendum affidavit vide order dated; - 22/01/2004. The said order has not been challenged and therefore has attained finality. Accordingly, the said affidavit is taken on record. However, from the record it transpires that the union has chosen not to cross examine the witness on further affidavit. In these circumstances, the averments made in the affidavit are to be believed to be true. In essence, after giving the history of previous litigation, the witness has stated that at present i.e. in 2003 only 4 persons namely Baldev T. Parmar, Rajesh G. Saini, Suresh K. Gohil and Poonambhai G. Parmar are there and they are running their own business in the canteen. It is also stated on oath that no other person is working in the said canteen. Therefore the witness prayed for deletion of names of other persons concerned in the reference.

As against this, the union has also through Mr. Baldev T. Parmar, concerned person filed an Affidavit dated 21.07.2004. In the said affidavit also, the said person has stated that only four above named persons are interested in the proceedings. He has further stated that the prayers made in the Statement of Claims are not pressed qua remaining employees. The said worker also requested to delete the names of other persons from the reference.

Thus considering the Affidavits of both the sides, it is crystal clear that no other person is interested in the present litigation as they are not working at the said canteen anymore since more than a decade. Subsequent to filing of the above affidavits also, no person has turned up in the Tribunal stating that he is interested in the proceedings. Therefore, this Tribunal hereby rejects the reference qua rest of the 11 employees mentioned in list attached to the Terms of Reference. In other words, the Tribunal has to decide the matter only qua 4 employees namely Baldev T. Parmar, Rajesh G. Saini, Suresh K. Gohil and Poonambhai G. Parmar in light of the Terms of reference.

7. The ONGC has subsequently filed its Legal Submissions in the matter dated: - 13/04/2005. From the record it is transpired that neither the Union nor the concerned 4 persons have since come forward to conduct the matter further and the same has been pending at the stage of Arguments for more than 12 years now. Only on one occasion in 2009, vide Exh. - 54, the representative of the second party has filed an application to take up the matter on board to enable him to submit a Judgment/ Citation. Except for the said judgment without any arguments/submissions the Second party has not shown any interest in the matter since 2004. Therefore as such the reference is required to be dismissed for default on this ground alone considering that the concerned persons are not interested in the matter. However this tribunal considering the record is proceeding to decide the matter on merits.

8. The tribunal derives its jurisdiction from the terms of reference as sent by the appropriate government. In the present matter, the issues that fall for consideration are

- i. Whether the Canteen at Saij- Shertha is a Statutory Canteen under the Mines Act?
- ii. If yes, whether the workers mentioned in the Schedule along with Mr. Baldev Parmar are entitled to be considered as direct workers of ONGC?
- iii. If yes, what relief they are entitled to?

Before advertng to the issues, it is held that as discussed in the foregoing paragraphs, the present reference in light of Affidavits mentioned in paragraph 6 above, the Reference is rejected qua 11 workers except Baldev T. Parmar, Rajesh G. Saini, Suresh K. Gohil and Poonambhai G. Parmar. Now the tribunal proceeds to decide the reference qua these 4 persons.

8.1 **Issue I**

What can be inferred from the Terms of reference is that the Tribunal has to first decide on whether the Canteen is a Statutory Canteen under the Mines Act. If the answer to that is in the affirmative, then only the tribunal has to decide the remaining two terms.

Now, as discussed above, the union in its Statement of Claims has averred that the Canteen is a Statutory Canteen under the Mines Act, the premises belongs to the ONGC, the committee formed by the ONGC decides on the food etc. as well as the rates of food etc. However, the union has not produced any documentary evidence to substantiate their averment regarding the same being a Statutory Canteen under the Mines Act. Even if the Oral evidence of the union is examined, the said fact has not been proved by the Union. Moreover, no arguments are advanced in this behalf or no Instructions from the Competent Authority are produced on record to show that the Canteen is a Statutory Canteen under the Mines Act. On the other hand, the ONGC has categorically stated that the Factories Act is not applicable to the ONGC. However, Mines Act is applicable to the ONGC. Moreover, the ONGC has stated in its Written Statement as well as Legal submissions that the same is not a statutory canteen and no instruction has been received from the Chief Inspector, Mines for canteen at any point in time. The witness of the ONGC has also averred the same on oath in his chief-examination. As stated above, the said fact is not controverted in the cross-examination by the sole witness produced by second party. Therefore the same is to be believed to be true. Thus, there is no instruction or written proof that would prove that the canteen was a statutory canteen. Moreover, as per Sec. 58 of the Mines Act, the Central Government has powers to make Rules regarding various aspects. Now if we look at the Mines Rules, 1955, more particularly, Rule 64, the said rule clearly suggests that only in case the Chief Inspector or the Inspector so requires, then only canteen is to be maintained. In the present case, there is no proof that such instructions are given. On the contrary as per the uncontroverted affidavit, no such instructions are given. Moreover, as per the addendum affidavit of the First Party, the above 4 persons are running the canteen independently as a business. Therefore I answer the first issue accordingly that canteen was not run by ONGC and hold that the canteen at Saij - Shertha is not a statutory canteen under the Mines Act.

8.2 **Issue II**

Now having answered the first issue in negative, as such the tribunal need not go into the Second and third Issue as the same come into play only if the answer of the first issue is in the affirmative. However, as stated above, only one person has been examined by the second party in the matter. Now subsequently the reference is sought to be withdrawn qua the said person and other 10 persons. Therefore the reference qua the said person stands withdrawn. Moreover, none of the above 4 persons have entered into witness box. Therefore on this ground alone, the concerned persons are not entitled to be treated as Class-4 employees of the ONGC.

Even otherwise, if the evidence of the said person is examined, he has admitted in his cross examination that no appointment letter is given by the ONGC. He has also admitted that he does not know the date of joining or educational qualification of other persons. As against that the witness of the ONGC has stated on oath that there are Recruitment rules for appointment of any person and the concerned persons have not undergone the said process. In the cross-examination also, he has stated that such recruitment rules for Class IV employees are also in place since inception. The second party has even otherwise not put anything on record to show that they are doing work similar to regular employees or they have undergone the recruitment process or their names were called from the employment exchange or they are subject to any disciplinary action. On the contrary the above workman also stated that no show cause notice is given by the ONGC to any of the concerned workers. Thus the concerned persons have failed to prove that they are similarly situated and therefore, are entitled for permanency or regularisation. Moreover, as per affidavit of second party, no contract is going on and the above 4 persons are now running the canteen on their own as businessmen. The First party has also relied upon judgments of the Hon'ble Supreme Court reported in 2000 (2) CLR 241 and 2007 (3) CLR 690 wherein it is held by the Hon'ble Court that workers working in canteen which is not a statutory canteen are not employees of the Principal Employer. The ratio laid down by the Hon'ble Court is squarely applicable in the present case. Moreover, in a recent Judgment of the Hon'ble Apex Court reported in 2014 (3) CLR 751, the Hon'ble Court has held that although there exists some degree of control and supervision on workers of statutory canteen, the said workers are not entitled for regularization. I have also gone through the Judgment cited by the Second Party in Hindalco Industries Ltd. v/s Association of Engineering Workers, 2008LLR509 but the said judgment is given in case of a statutory canteen and the facts of the said case are different from the facts of the present case. Moreover the Hon'ble Supreme Court has subsequently decided a similar issue in State Bank of India V/s State Bank of India Canteen Employees Union 2000 II CLR 241 wherein it is observed as under:

“It is admitted position that in law if there is an obligation to provide a canteen, the employees working in the canteen would be employees of the Bank, and if not, the employees working in the canteen may not become part of the establishment.

With reference to Sastri Award it is observed as follows –

This would not mean that paragraph 609 of the Award cast any obligation that amenities, such as canteen, club-house payment of taxes etc. must be provided by the bank. Learned counsel for the appellant failed to point out any part of the award which makes it obligatory for the bank to provide canteen facilities by running a canteen.

Referring to Hand Book on the Staff Welfare Activities prepared by State Bank of India it is observed as follows:

This would also indicate that there was no obligation on the part of the bank to provide canteen facilities to its staff; otherwise staff federation would not have settled the appeal against Justice Moidu Award, which was pending before this Court, on the basis of settlements. Further, it cannot be said that an outsider who is not employed by the bank, but who is working in the canteen run by the LIC can claim that he is discriminated. Discrimination between two equals may arise in case where employees are appointed by the bank.

There is no obligation statutory or otherwise to run the canteens by the bank. The scheme only provides for grant of subsidy, for promoting running of canteen and if some more cost is incurred in running the canteen, the members of the staff working in that particular branch are required to bear it. The bank is not employing the canteen workers. The bank is not supervising or controlling the work or the details regarding the canteen or its employees appointed by the Local Implementation Committee. Auditing the work of Local Implementation Committee - whether subsidy given it is properly utilized or not, also would not be a ground for holding that bank is having any control in running the canteen. Bank is not taking any disciplinary action or directing any canteen employees to do a particular work or for that purpose no scheme is laid down by the bank. Not only this, the other most important aspect is ‘the recruitment’ by the bank is to be made as per the statutory rules framed by it after giving proper advertisement, test and/or interview. As against this, for appointing a canteen employees there are no rules framed by the bank.”

Therefore the said judgment is not helpful to the Second party.

Thus considering the facts of the present case and the ratio laid down by the Hon'ble Supreme Court, I hold that the concerned persons are not entitled to get permanency benefits as Class-IV Employees of ONGC.

8.3 **Issue III**

Now in light of the fact that the Issue No. I and II are decided in negative, I hold that the concerned persons are not entitled to any relief. Moreover considering the fact that the above case has been pending for almost 20 years and the said persons have not shown any interest to conduct the matter since 2004 also, the said persons are not entitled to any relief.

9. Thus the reference is dismissed and the workmen who pressed/contested the reference are not entitled to any relief.

10. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1774.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जैट एअरवेज इण्डिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 260/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.07.2017 को प्राप्त हुआ था।

[सं. एल-11012/116/1999-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1774.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 260/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in Annexure, in the industrial dispute between the management of M/s. Jet Airways (I) Limited and their workmen, received by the Central Government on 10.07.2017.

[No. L-11012/116/1999-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 20th April, 2017

Reference: (CGITA) No. 260/2004

The Director,
Jet Airways (India) Ltd.,
S.M. Center, Andheri Kurla Road,
Andheri (E), Mumbai – 400059

...First Party

V/s

The General Secretary,
Gujarat Mazdoor Panchayat,
Shram Shakti, P.B. No. 77, Opposite Prabhat Press,
Mirjapur Road,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri P.H. Thakkar

For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-11012/116/99-IR(C-I) dated 20.01.2000 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Gujarat Mazdoor Panchayat against Jet Airways for to get regular/permanent status to Vinod B. Parmar and other 9 workers from their date of joining and also the demand for to get salary to these workers equal to others permanent workers, is fair and justified? If so, then, whether it is legal to terminate the services of aforesaid workers w.e.f. various dates in 1998? If not, then, what relief the concerned workmen are entitled to and from which date?”

1. The reference dates back to 20.01.2000. The second party submitted the statement of claim Ex. 5 on 30.03.2000 and the first party submitted the written statement Ex. 6 on 24.02.2000. Since then the second party has been absent and has not preferred to lead evidence despite giving dozens of opportunities. Thus it appears that the second party workman has not been willing to prosecute the case.

2. Therefore, the reference is disposed of in the absence of the evidence of the second party with the observation as under: “the demand of the Gujarat Mazdoor Panchayat against Jet Airways for to get regular/permanent status to Vinod B. Parmar and other 9 workers from their date of joining and also the demand for to get salary to these workers equal to others permanent workers, is unfair and unjustified.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1775.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इण्डियन एअरलाईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 833/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.07.2017 को प्राप्त हुआ था।

[सं. एल-11012/65/2003-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 24th July, 2017

S.O. 1775.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 833/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in Annexure, in the industrial dispute between the management of M/s. Indian Airlines and their workmen, received by the Central Government on 10.07.2017.

[No. L-11012/65/2003-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 22nd February, 2017

Reference: (CGITA) No. 833/2004

The General Manager,
M/s Indian Airlines,
New Engineering Complex,
Sahaar, Ville Parle (East),
Mumbai

...First Party

V/s

Shri Bharat Ratansinh Baria,
At & PO Saniyada,
Tal Gogamada,
Panchmahalasa (Gujarat)

...Second Party

For the First Party : None

For the Second Party : Shri P. Chidambaran

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-11012/65/2003-IR(C-I) dated 14.01.2004 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Indian Airlines in terminating the services of Shri Bharat Ratansinh Baria, Helper (commercial) w.e.f. 08.12.1999, reappointing him in the said post w.e.f. 28.03.2000 on probation and again terminating his services w.e.f. 21.11.2000 is legal, proper and justified? If not, to what relief the concerned workman entitled?”

1. The reference dates back to 14.01.2004. The second party submitted the statement of claim Ex. 7 on 22/26.04.2004 and the first party submitted the written statement Ex. 13 on 16.02.2005. Since then the second party has not been leading evidence. On 28.03.2016, advocate Shri Sanjay Vaghela for the second party moved an application Ex. 19 seeking adjournment on the ground that he is unable to file the affidavit/examination-in-chief of the workman due to unavoidable circumstances, same was granted and the case was listed for evidence on 28.07.2016. On 28.07.2016 and thereafter on 03.10.2016 and 21.12.2016 and also today on 22.02.2017, the second party workman has failed to lead evidence. Thus it appears that the second party workman has no willingness to prosecute the case.

2. Therefore, the reference is disposed of in the absence of the evidence of the second party with the observation as under: “the action of the management of Indian Airlines in terminating the services of Shri Bharat Ratansinh Baria, Helper (commercial) w.e.f. 08.12.1999, reappointing him in the said post w.e.f. 28.03.2000 on probation and again terminating his services w.e.f. 21.11.2000 is legal, proper and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1776.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत इलेक्ट्रॉनिक्स लिमिटेड, अध्यक्ष और प्रबंध निदेशक (सीएमडी), बेंगलोर के माध्यम से कॉर्पोरेट कार्यालय व अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, चंडीगढ़ के पंचाट (आईडी संख्या 28/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.07.2017 को प्राप्त हुआ था।

[सं. एल-14011/13/2013-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1776.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 28/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in Annexure, in the industrial dispute between the employers in relation to the Bharat Electronics Limited, Corporate Office through Chairman and Managing Director (C.M.D.), Bangalore & others and their workman, which were received by the Central Government on 19.07.2017.

[No. L-14011/13/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH****Present:** Sri Kewal Krishan, Presiding Officer**Case No. I.D. No. 28/2015****Registered on 27.01.2016**

Bharat Electronics Workers Union (Negotiating Trade Union)
through General Secretary Sh. Rajesh Kumar,
C/o Bharat Electronics Limited, Plot No.405,
Industrial area, Phase-III, Panchkula (Haryana)-134113

...Petitioner

Versus

1. Bharat Electronics Limited, Corporate Office through Chairman and Managing Director(C.M.D.), Outer ring road, Nagawara, Bangalore-560045.
2. Bharat electronics Limited, Panchkula Unit through General Manager, Plot No.405, Industrial area, Phase-III, Panchkula(Haryana)-134113.
3. Sh. Anil Kumar Lal, (Former Chairman and Managing Director (C.M.D.), Bharat Electronics Limited, Corporate (Office) through General Manager, Plot No.405, Industrial Area, Phase-III, Panchkula(Haryana)-134113 (deleted vide Order dated 03.07.2017)

...Respondents

APPEARANCES :

For the workman : Sh. Pankaj Jain and Sh. Sumit Jain counsel

For the Management : Sh. N.K. Zakhmi and Sh. P.K. Mutneja Adv.

AWARD**Passed on : 03.07.2017**

Vide Order No.L-14011/13/2013-IR(DU), dated 01.02.2016 the Central Government in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

“Whether the action of management of Bharat Electronics Ltd. Panchkula in transferring 15 workmen as annexed from Panchkula Unit to other units is just, fair, correct and legal? If not, to what relief these workmen are entitled to?”

1. Sh. Anil Kumar Lal, impleaded as respondent in the claim petition was not a party in the reference made by the Government and therefore, his name is deleted from the array of respondents.
2. In response to the notice, the workmen-Union and the management appeared and filed statement of claim and written statement.
3. The facts, emerging, are that Bharat Electronics Limited (hereinafter referred as BEL) i.e. Respondent No.1 is a Government of India enterprise under the Ministry of Defence with its Head Office at Bangalore and have nine manufacturing units spread all over the country including the Unit at Panchkula. The Panchkula Unit was set up in 1984. The basic purpose of Bharat Electronics Limited is to meet the emerging strategic needs of defence forces and is engaged in design, development, manufacture and supply of equipment and systems in the area of communication, radar, fire control system etc. Since it is a sensitive work, it requires high degree of skilled manpower.
4. It is pleaded in the claim petition that 15 employees were transferred from Panchkula unit to Chennai, Ghaziabad, Machilpatnam and Navi Mumbai vide transfer order No.17556/IUT/HOA dated 26/6/2013 as find mention in Annexure W2 which read as follows:-

Sl. No.	Name, Staff No. (Sh./Smt.)	Designation	From	Transferred to	Report to
1	Shamsher Singh NE-208989	Accountant	PK	CHN Unit	GM (CHN)
2	Naresh Sachdeva NE-206547	Sr. MM Assistant	PK	GAD Unit	GM (RADAR)/GAD
3	Suresh Kumar NE-207163	Sr. Technical Assistant	PK	GAD Unit	GM (RADAR)/GAD
4	Roshan Lal NE-208136	Technical Assistant	PK	GAD Unit	GM (RADAR)/GAD
5	Pawan Kumar NE-207958	Technical Assistant	PK	GAD Unit	GM (RADAR)/GAD
6	Mukesh NE-208131	Technical Assisstant	PK	GAD Unit	GM (RADAR)/GAD
7	Balwan Singh NE-208448	Technical Assistant	PK	GAD Unit	GM (RADAR)/GAD
8	Pawan Kumar NE-207706	Sr. Technical Assistant	PK	GAD Unit	GM (RADAR)/GAD
9	Rajinder Kumar NE-207692	Technical Assistant	PK	GAD Unit	GM (RADAR)/GAD
10	Pawan Kumar NE-208116	Technical Assistant	PK	MC Unit	GM (RADAR)/GAD
11	Jai Bhagwan NE-208114	Technical Assisstant	PK	GAD Unit	GM (RADAR)/GAD
12	Kuldeep sinhh NE-207726	Project D'S Man	PK	CHN Unit	GM (RADAR)/GAD
13	Surinder Kumar NE-208137	Technical Assistant	PK	GAD Unit	GM (RADAR)/GAD
14	Sunil Kumar gupta NE-206887	Sr. Project D'S Man	PK	NAMU Unit	GM (RADAR)/GAD
15	Vijender Singh NE-207062	Sr. Technical Assistant	PK	GAD Unit	GM (RADAR)/GAD

5. It is further pleaded that since the inception of the company in 1954, no workman was transferred from one unit to other unit except after obtaining willingness or internal advertisement and similarly no transfer took place from the Panchkula Unit since the year 1984.

6. The workmen-Union raised the dispute before the Regional Labour Commissioner, where the management appeared but no conciliation took place. The Union filed Civil Writ Petition No.16656 of 2013 before the Hon'ble Punjab and Haryana High Court and the operation of transfer order was stayed vide order dated 7.8.2013 (Annexure W6). The Bharat Electronics Limited filed LPA No.1552 of 2013 but the same was dismissed by the Hon'ble High Court vide order 1.10.2013 (Annexure W7).

7. The Central Government made the following reference vide order dated 22.10.2013 –

“Whether the action of management of Bharat Electronics limited, Panchkula in transferring 15 workmen as annexed from Panchkula Unit to other units without any transfer policy is just, fair and legal? If not, what relief the concerned workmen are entitled to”

8. The BEL challenged the said reference by filing Civil Writ Petition No.111 of 2014 which was dismissed vide judgment dated 9.1.2014 (Annexure W8).

9. The B.E.L filed LPA No.590 of 2014 which was allowed vide order dated 16.9.2015 (Annexure W9) with the following observation –

“Consequently, we hold that the reference as framed is contrary to the standing orders and therefore, not tenable. The reference is set aside but with liberty to the “appropriate Government (Government of India, Ministry of Labour)”, to take a fresh decision in accordance with law, after considering the grievance of the workmen, which in our prima facie opinion may relate to the nature of the transfer orders and not to the absence of a policy and also objections, if any, that may be raised by the appellants, within a period six weeks from the date of receipt of certified copy of this order. During this period, transfer orders shall remain in abeyance. The impugned order is, therefore, set aside and the appeal is allowed in the above terms.”

10. Thereafter, the parties submitted their representations before the Labour Commissioner who sent a failure report on 11.01.2016. It was further pleaded that without waiting the final decision of the appropriate Government, the management issued a Relieving Memo dated 28.11.2015, relieving the transferred employees on the ground that six weeks period given by the Hon'ble High Court vide order dated 16.9.2015 in LPA No.590 of 2014 has already expired.

11. The Union again filed Civil Writ Petition No.25804 of 2015 challenging the relieving memo dated 28.11.2015 and the same was stayed by the Hon'ble High Court vide order dated 10.12.2015 (Annexure W14) and the workmen joined back on 14.12.2015.

12. It is pleaded that the Writ Petition No.25804 of 2014 was dismissed by the Hon'ble High Court vide Judgment dated 6.5.2016 (Annexure W-16) and management again issued Relieving Memo dated 11.5.2016 (Annexure W17).

13. The workmen-Union filed LPA No.840 of 2016 against the said judgment which was dismissed vide order dated 18.5.2016 (Annexure W-17) holding that the observations made in the above said judgment would not impinge upon the jurisdictional competence of Industrial Tribunal-cum-Labour Court.

14. The 11 workmen out of the 15 workmen joined at their respective transferred places conditionally.

15. The Union filed SLP No.24606 of 2016 (Annexure W20) and the Hon'ble Supreme Court was pleased to direct to decide the reference within four months.

16. The transfer orders have been challenged on the ground that there are no rules for inter-unit transfer of the non-executive employees as well, no workman was transferred from one unit to another Unit by the company except taking willingness or internal advertisement. That no transfer took place from the Panchkula Unit since its inception in the year 1984. But the present transfers have been made without issuing any internal advertisement or asking for willingness from the employees transferred. It is further pleaded that no vacancy has arisen in any of the units to which the employees were transferred. The workmen have been meted out with discrimination and arbitrary treatment. It is further pleaded that there was no 'exigency' involved in ordering the transfer of the 15 workmen and pleaded in para 15 of the statement of claim mentioning the numbers of the workforce already working in Chennai, Ghaziabad, Machlipatnam and Navi Mumbai Units and there was no requirement of the employees who were transferred there.

17. It is alleged that Sh. Anil Kumar (who retired on 31.12.2013), was the Chairman and Managing Director of the company, was earlier posted at Panchkula for about 17 years in different capacities and during his posting at Panchkula in 1989, he has established manufacturing units under the name and style of "Box Strapping" and "Design engineering Analysis Group" and was supplying inferior quality material to the Unit regarding which the matter was agitated by the

transferred employees; and to settle the scores, he transferred the employees just prior to his retirement. That the management indulged in unfair labour practice in transferring the employees and the Court is required to lift the veil to see whether the transfers were mala fide.

18. It is also pleaded that the transfer of employees from one unit to another unit tantamount to change of service conditions which cannot be done.

19. Considering all these circumstances, the transfer of the employees be cancelled and the reference be answered in favour of the Union.

20. The management in its written statement controverted the allegations and pleaded that condition of “Transfer” is clearly mentioned in the Standing Orders of the Panchkula Unit and the same also finds mention in the appointment letters issued to the transferred workmen. It is further pleaded that the workmen-Union entered into the settlement dated 19.5.2010 (Annexure R3) which inter alia provides that the existing manpower can be utilised by redeploying and retraining of the workmen whenever is required. This settlement is still in force which was done at the national level and all the Units of the Company signed it. It is further pleaded that a meeting of Joint Standing Committee was held on 13.5.2013(Annexure R-4)at Corporate Office, Bangalore and in which Rajesh Kumar, the present representative of the workmen Union was present, and it was specifically told by CMD that the Panchkula Unit has not done well and the employees are to be transferred depending on the work requirement in the other units and no objection was raised to the minutes’ of the said meeting.

21. In view of the Standing Orders, appointment letter, settlement dated 19.5.2010 between the parties and the minutes of the meeting dated 13.5.2013, the company had the right to transfer the employees which is an incidence of service and it is for the management to see how the manpower is to be used and the courts cannot interfere in the transfer orders. It is further pleaded that transfers were made in the ‘exigencies of the service’ which is to be seen by the employer and the Court cannot substitute its views on the orders of transfer.

22. Parties were given opportunity to lead its evidence.

23. In support of the case, Sh. Rajesh Kumar, General Secretary of the Union appeared in the witness box and filed his affidavit Exhibit P1 reiterating the stand taken in the claim statement.

24. On the other hand, Sh. Devinder Kumar Singla, Manager-HR was examined by the respondent management who filed his affidavit DX along with documents Exhibit D4 to D10 reiterating the stand taken in the written statement.

25. I have heard Sh. Pankaj Jain and Sh. Sumit Jain counsel for the workmen-Union and Sh. P.K. Mutneja and Mr. N.K. Zakhmi, counsel for the management.

26. The learned counsel for the workman-Union carried me through the Standing Orders of Panchkula Unit and submitted that “Unit” means the company’s Unit called Bharat Electronics Limited, Panchkula, district Panchkula which expression shall include all its divisions, departments, Sections, workshops, plants, establishments and offices and submitted that the person posted at Panchkula cannot be transferred to any other Unit. He has also carried me through a ‘chart’ prepared by him to show that if an employee is transferred to another unit then there is a change of service conditions which cannot be done by the company at any cost. He has further argued that Sh. A.K. Lal remained posted at panchkula for about 17 years and he was doing his private business and used to sell the material to the Panchkula Unit regarding which the transferred employees agitated the matter and at the fag end of the service, as he retired on 31.12.2013, ordered the transfer of the employees on 26.6.2013 which are not due to any ‘exigency’ but are mala fide and amounts to “unfair labour practice”; and therefore, the transfer orders are not legal, just and fair and be set aside.

27. Opposing this, it was argued by Mr. P.K. Mutneja that there is a clause in the appointment letter regarding transfer of the employees as well the Standing Orders clearly prescribe the condition that an employee can be transferred to any other place under the company who runs nine units at different places. He has further carried me through the Settlement dated 19.5.2010 (Annexure R3) entered into between the parties vide which some monetary benefits were given and it is also provided for transfer of the employees to improve the utilization of the existing manpower and further carried me through the minutes of the meeting (Annexure R4) held on 13.5.2013, where the Chairman informed the participants regarding the transfer of the employees from the Panchkula Unit; and thus submitted that all these documents are binding on the employees and they can be transferred to any Unit.

28. I have considered the respective contentions.

29. It may be added that the question whether the non-executive workmen can be transferred from one unit to other unit was settled by the Hon’ble High Court in LPA No.590 of 2014 decided on 16.9.2015 (Annexure W9) which was between the parties and it was held :

“A perusal of the reference reveals that the Industrial Tribunal has been called up to opine whether transfer of 15 workmen without any transfer policy is just, fair and legal.

A prima facie perusal of the appointment letters reveal that they contain a clause whereby the workmen can be transferred to any unit of the appellant in any part of India. Clause 8 of the standing order, titled “Transfers” contains a detailed reference to the mode and manner of transfer thereby in our opinion, setting out guidelines policy for transfer. The reference as framed requiring the Tribunal to opine whether transferring 15 workmen from the Panchkula unit to other units “without any transfer policy”, is just, fair and legal, was apparently made without considering the appointment letters and clause 8 of the standing order. As already recorded, Clause 8 of the standing order titled as “Transfers” contains a detailed reference to the mode and manner of transfer, thereby setting out guidelines/a policy for transfer. Counsel for the respondent No.3 has also conceded that Clause 8 of the standing order contains guidelines/a policy for transfer.”

30. Thus, it is clear that the present workmen can be transferred from one Unit to another Unit and the arguments raised by the learned counsel for the workmen in this respect has no force in it.

31. Since, there is a clause in the appointment letter as well as the standing orders and the settlement entered into between the parties regarding inter-unit transfers and therefore, the contention that the transfer from one Unit to other Unit will change the service conditions has no basis as the employees are to be governed by the Standing Orders as applicable to that very Unit.

32. Mala fide has been alleged against Sh. A.K. Lal who was the CMD-cum-Managing Director at the time of transfers pleading that while remained posted at Panchkula, he got annoyed with the present transferred employees who agitated against his way of working and due to mala fide intention, he effected the transfers of the employees to far away places and they do not even know the language of the place to which they were transferred. Suffice it to say that the question of mala fide on the part of Sh. A.K. Lal cannot be considered as Sh. A.K. Lal has not been impleaded in the reference.

33. As per the admitted case, the workmen were relieved vide Relieving Memo dated 28.11.2015, in view of the transfer order dated 26.6.2013 as the time given by the Hon'ble High Court vide judgment dated 16.9.2015 passed in LPA No.590 of 2014 (Annexure W9), as reproduced above, had expired.

34. The workers-Union challenged the relieving memo dated 28.11.2015 by filing a Civil Writ Petition No.25804 of 2015 and the Hon'ble high Court stayed the said order vide order dated 10.12.2015 (Annexure W14) and the relevant portion reads as follows:-

“In the meantime, the affected workers will not be transferred and they will be allowed to work at the present place of posting till further orders. The aggrieved workers represented by the petitioner Union will not be relieved from the present place of posting. In case, they have been relieved, then the management would take in back forthwith and they be made to rejoin at the previous place, subject to orders which may be passed either in the stay vacation application which Mr. Mutneja requests or in the main case, as the case may be.”

35. However, the Civil Writ Petition No.25804 of 2015 was dismissed by the Hon'ble High Court vide judgment dated 6.5.2016 (Annexure W16) and it was observed in para 16 of the judgment as follows-

That the petitioners have not make out a case so as to interfere, since their rights have not been affected in any manner. In the absence of valid legal right to hold a particular post under statutory provision courts cannot interfere. Ultimately, it is for the employer to get posting of its employee to a particular post and place. The employer is the best Judge who can exercise discretionary power to post an employee to a particular post and place for the purpose of extracting work and also run the administration smoothly.

36. The workmen-Union preferred an LPA No.840 of 2016 which was disposed of vide judgment dated 18.5.2016 (Annexure W18) and it was observed in para 9 as follows:-

Para 9 - The issue as to whether or not the transfer of office bearers of workers' Union amounts to unfair labour practice is essentially a question of fact which can be effectively determined by the appropriate forum on consideration of evidence on record. It may not be prudent for a writ court to pre-empt the effect of a transfer order merely on the basis of allegations of unfair labour practice. We are satisfied that the previous directions issued by this Court to keep the transfer orders in abeyance were for the interregnum only till the appropriate government could decide as to whether or not there existed a referable Industrial dispute. Once reference has been made, it is for the Industrial Tribunal-cum-Labour Court to pass appropriate orders for which the appellant is at liberty to approach.

37. It was further observed in Para 12 as follow:-

Para 12- *Needless to say that the observations made by the learned Single Judge on the scope of interference in relieving orders are in the context of exercise of writ jurisdiction and such observations in no manner would impinge upon the jurisdictional competence of the Industrial Tribunal in deciding the reference in question on merits.*

38. Thus, this court is to find out whether the transfer of the workers amount to “unfair labour practice” or whether the same are just and fair. It is settled law that employer is the best judge to post an employee at the place which suits it and the Courts have limited power to substitute its own decision in place of the employer transferring the employee.

39. Now the question is whether the transfers are made as per the transfer policy as framed by the Company. Clause 8 of the Standing orders deals with the transfers and it read as follows:

8.0 Transfers

8.1 *“Depending on the exigencies of work, workman may be transferred from one shop/section/department to another within the Unit or from one Unit to another belonging to a company or from one station to another. On such transfer the workman seniority and normal emoluments applicable to him will not be affected. Where the transfer is to another Unit, the transferee will be governed by the service conditions of that unit.*

8.1.1 *A workman may also be transferred according to exigencies of work, from one job to another, which in the opinion of the Manager he is capable of doing.*

40. Clause 1.3.4 of the settlement (Annexure R3) arrived at between the Bharat Electronics Workers Union Panchkula and the management read as follows:

“To improve the utilization of existing manpower by re-deployment and retraining of workmen wherever required and also by undertaking multi-skills training.

41. Thus, as per Clause 8.1 of the standing orders and Clause 1.3.4 of the settlement dated 19.5.2010 (Exhibit D4), the workmen can be transferred due to the “exigencies” of work and to improve the utilization of the existing manpower by re-deployment. Thus, when there is urgent need or demand in any Unit, an employee can be transferred from one unit to another and similarly if there is surplus manpower, the surplus persons can be transferred to another unit where they are so required. Thus, as per transfer policy as mentioned in the said standing orders, and in the settlement arrived at between the parties, the workman can be transferred due to ‘exigencies of work’ or to improve the utilization of existing manpower. Both these facts are not proved in the present case.

42. Sh. Rajesh Kumar, who appeared in the witness box in support of the case of the workman-Union, reiterated the case of the workmen as pleaded in the statement of claim, and deposed in para 37 of his affidavit as follows:-

The so-called “exigency of work” has been created by the Management with malafide intention whereas in fact there no exigency of work. These facts would be clear from the following submissions:

- a. The workman Pawan Kumar figuring at Serial No. 10 of the transfer order who was Vice President of the Union (1999 to 2003) and was a Executive Member of the Union at the time of transfer order dated 26.06.2013, is a Technical Assistant and has been transferred to Machhlipatnam unit in Andhra Pradesh. It is humbly submitted that the Machhlipatnam Unit has a workforce of about 350 and out of those, as many as 91 workmen are working on the same trade with same technical qualification and same nature of duties. It is highly improbable that the workload is held up by those 91 workmen for want of one more workman.*
- b. More interesting is the case of Sh. Kuldeep Singh who figures at serial No. 12 of the transfer order. Said Kuldeep Singh is the main target of the management as he remained President of NTU (1995 to 2006) and had raised objections against the wrongs of the AGM, Sh. Anil Kumar. He is a Draftsman by profession and has been thrown to Chennai Unit, deliberately where out of total 89 workmen, as many as 07 are Draftsmen.*
- c. Same is the case of Sh. Shamsher Singh who was General Secretary of the NTU, he belongs to Clerical Cadre and he has also been transferred to Chennai Unit where already a workforce of 10-15 clerical staff is working.*
- d. Sh. Sunil Kumar who figures at Serial No. 14 of the transfer order, is also a Draftsman by profession. He has been transferred to Navi Mumbai Unit where out of 373 workmen (Presently 343), Presently 7 Draftsman is already working there.*

- e. *The other 10 workmen figuring at Serial Nos. 3 to 7, 9 to 11, 13 and 15 are Technical Assistants and have been transferred to Ghaziabad Unit where out of around 800 workforce (Presently 700 workforce), as many as around 450 similar workmen are working.*
- f. *Sh. Naresh Sachdeva figuring at Serial No. 2 of the transfer order, is from clerical cadre and has been transferred to Ghaziabad Unit where about 60 persons are working in clerical cadre.*

It is relevant to note that Panchkula Unit is having its own Development & Engineering Department having a full fledged Drawing Office. Out of total workforce of around 350, there are only 3 Draftsmen and out of those two have been transferred- one to Chennai and other to Navi Mumbai.

43. His above noted statement is not challenged in cross-examination and it remains unrebutted on the file which prove that sufficient workforce was already working at Chennai, Ghaziabad, Machlipatnam and Navi Mumbai and there was no requirement of posting any more persons of the particular trade as were the transferred employees nor respective units sent any requisition to the Head Office asking for deploying more persons there having the qualifications and the experience of the present workmen. Thus, the transfer of the workmen to the respective places was not required at all. Meaning thereby, the management has totally failed to prove that there was an urgent need of the workmen transferred to different places as shown in (Annexure W2).

Similarly, there is nothing on the file to suggest that there was surplus work force at the Panchkula Unit which required immediate need of the transfer of 15 workmen.

Thus, it cannot be said that the transfers are made due to “exigencies” of work or there was excess manpower in Panchkula Unit which necessitated the transfer of the 15 workmen from the Unit to different places and as such, the transfer policy made by the company itself is not followed in the present case.

44. The learned counsel for the management carried me through the minutes of the meeting (Annexure R-4) held on 13.5.2013 attended by Rajesh Kumar, the representative of the workmen-Union and submitted that the Chairman-cum-Managing Director of the respondent management informed the persons present there that employees from the Panchkula Unit are to be transferred depending on the work requirement in other units and for optimization of the manpower. But the CMD was requested by the members of the Unit not to disturb the employees. Thus, the proposal was made to transfer the employees to which the members of the Union did not agree and the minutes of the meeting do not lay down any transfer policy and on its basis transfer cannot be effected which can only be done by following Clause 8 of the Standing Orders and Clause 1.3.4 of the Settlement entered into between the parties.

45. It is pleaded in Para 2B and 2C of the statement of claim which reads as under:-

- 2B. *That since the inception of the company (1954) no workmen has been transferred from one unit to another unit except willingness or internal advertisement because every unit has its difference set of service condition in terms of certified standing orders in so many matters and particularly in inter unit transfer matter.*
- 2C. *That in the Panchkula Unit also since its inception in the year 1984, till 26.6.2013 no transfer took place without taking willingness of employees as per prevailing practice.*

46. Thus, it is a definite case of the workmen-Union that no workman was transferred from one Unit to another except by taking willingness or internal advertisement. This fact is not controverted by the management in the written statement as well as no question was put to Rajesh Kumar when he appeared in the witness box and reiterated the said averments. Rather the management has simply pleaded that it was a concession given to the employees, and thus, admit the Policy of taking willingness or internal advertisement was followed by the Company for transferring workmen from one Unit to other Unit. Sh. Devinder Kumar, witness of the management while appearing in the witness box has also admitted that the management was transferring workers after obtaining their consent. Thus, it was an established practice of the company to obtain consent of the workmen who are to be transferred. There is no dispute that no such rule exists of obtaining consent in the Standing Orders but this practice of obtaining consent has been followed since long and it is not clear why the departure has been made in the present transfers.

47. When the respondent management was following a uniform policy of obtaining willingness of employees for transfer since the year 1954, it is not made out how the present 15 workers were transferred without obtaining their willingness or by any internal advertisement which further shows that the management has not followed its rules and policy in transferring the present workmen.

48. Thus, transfers have not been made as per Clause 8 of the Standing Orders and as per Clause 1.3.4 on settlement arrived at between the parties; and as per admitted practice of obtaining consent of the employees to be transferred and in the circumstances, it is to be held that transfer of the workmen to different places from panchkula Unit under the guise of following transfer policy is an ‘unfair labour practice’, is not valid, fair and legal.

49. In result, the present reference is accepted and the action of the management in transferring 15 workmen as per Annexure W2 from Panchkula Unit to other Units is held not to be fair, correct and legal and the workmen are entitled to join at the Panchkula Unit. The 11 workmen who joined at different place in view of transfer order be retransferred to Panchkula Unit within one month from the publication of the award, and the four employees, who did not join at their respective place of transfer, be also allowed to join at Panchkula Unit within the same period.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1777.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, सबूत और प्रायोगिक प्रतिष्ठान, चांदीपुर, उड़ीसा, बालासोर एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 93/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.06.2017 को प्राप्त हुआ था।

[सं. एल-14011/06/2012-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1777.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 93/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in Annexure, in the industrial dispute between the employers in relation to the Director, Proof and Experimental Establishment, Chandipur, Orissa, Balasore and their workman, which were received by the Central Government on 13.06.2017.

[No. L-14011/06/2012-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri B. C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 93/2012

Date of Passing Award – 26th May, 2017

Between:

The Director,
Proof & Experimental Establishment,
Chandipur, Orissa, Balasore

...1st Party-Management

(And)

The General Secretary,
Proof Employees Union,
Chandan Mahal, Sunhat,
Balasore Orissa

...2nd Party-Union

Appearances :

None ... For the 1st Party-Management

Shri R.K. Barik ... For the 2nd Party-Union

AWARD

The Government of India in the Ministry of Labour vide its letter No. L-14011/06/2012-IR(DU), dated 03.12.2012 has referred a dispute arose between the Proof & Experimental Establishment, Chandipur and the Proof Employees' Union exercising its jurisdiction under section 10 of the I.D. Act for its adjudication with the following schedule.:-

“Whether the action on the part of the Director, Proof and Experimental Establishment a DRDO Unit under Ministry of Defence, Chandipur in notpaying OT wages to the workers and NGO category beyond grade pay of Rs. 4200/- as per the 6th C.P.C. pay scales is legal and justified? If not what relief the workmen are entitled to? (b) “Whether the action of the Management of the Director, Proof and Experimental Establishment, a DRDO unit under the Ministry of Defence, Cahdnipur is not paying OT wages for the month of November and December, 2011 to the workers beyond grade pay of Rs. 4200/- who were detailed on OT duty is appropriate and justified? If not, what relief the workers are entitled to?”

2. It is the case of the 2nd Party-Union that Proof Experimental Establishment, (PXE) Chandipur is a defence industrial establishment and the same being registered under the Factories Act, 1948 is an “Industry”. All the employees of the establishment are declared workers within the scope of the Factory Act and as such they are entitled to receive over-time wages in terms of the provisions of Section 59 of the Factories Act irrespective of different grade pays to which different categories of employees are entitled to receive. According to the Union despite such provision of payment of Over Time wages, the Management is not making provision for payment of over-time wages to the group of workers whose grade pay is more than 4200/-. Such action of the Management being illegal and unjustified directions should be given for making provision of over-time wages to all categories of employees irrespective of grade pay to which they are entitled to.

3. Being noticed the Management filed its written statement contesting the claim of the Union and thereafter it failed to make its appearance for which it has been set ex parte. In the written statement it has been contended that the Management not being an “industry” as defined under section 2(j) of the I.D. Act is not under the purview of the Act and as such the reference is not maintainable. It has been further pleaded that the employees of the establishment of the Management are being paid Over Time wages as per the 6th C.P.C. As the 6th C.P.C. does not provide over-time wages to the worker whose grade pay is above Rs. 4200/-, question does not arise for making payment of such over-time wages to such category of employees. Hence, the claim statement of the Union merits no consideration.

4. As the Management failed to attend the proceeding after filing its written statement, the 2nd party-Union is allowed to advance its evidence ex parte. One Ranjan Barik, General Secretary of the Proof Employees Union has filed ex parte evidence in shape of sworn affidavit under Order 18 Rule 4 C.P.C. Documents like copy of the office of the letter of the Asst. Director of Factories & Boilers, BiS Memo No. 177, dated 22.3.2005, letter of the Ministry of Defence dated 1.7.1998 and 10.5.2011, letter of the Deptt. of Personnel dated 9.12.2011 and letter of the Ministry of defence dated 22.7.2013 have also been exhibited from Ext.-1 to 5 on behalf of the 2nd party-Union.

5. The oral testimony of W.W.-1 is nothing more or less than the repetition of the averments advanced in the statement of claim. The maintainability of the reference having been challenged in the written statement on account of a pleading that the Management being a defence establishment is not coming under the purview of the “Industry” as defined under the I.D. Act it would be just and proper to examine the said issue first. In the context it is useful to refer the decision of the Hon’ble Apex Court in the case of “Bangalore Water Supply and Sewerage Board –Versus- A. Rajjappa & others (AIR 1978 SC 969)” wherein the term “Industry” has been explained with the following observations:- Chief Conservator of Forests –versus- Jagannath Maruti Kondhare, (1996) 2 SCC 293 : (1996 IR SCW 735), wherein this Court, while rejecting the governmental or sovereign function than a commercial venture and, therefore, also it would not fall with the purview of Section 2(j) of the I.D. Act.

The question : What is an “Industry” under the Industrial Disputes Act? Has been answered by this Court in Bangalore Water Supply Case (AIR 1978 SC 548) (supra as under:

“I

140. ““Industry””, as defined under Section 2(j) and explained in Banerji (supra) has a wide import.

(a) Where (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and substantial element is chimerical) (ii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g. making, on a large scale Prasad or food), pima facie, there is an ““Industry”” in that enterprise.

(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

(d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

II

141. Although Section 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be manifested to over reach itself.

(a) “Undertaking” must suffer a contextual and associational shrinkage as explained in Banerji (supra) and in this judgement : so also, service, calling and the like. This yields the inference that all organized activity possessing the triple elements in I (supra), although not trade or business, may still be “Industry” provided the nature of the activity, viz. The employer-employee basis, bears resemblance to what we find in trade or business. This takes into the fold of “Industry” undertakings, callings any services, adventures analogous to the carrying on the trade or business. All features, other than the methodology of carrying on the activity viz. In organizing the co-operation between employer and employee, may be dissimilar. It does not matter, if on the employment terms there is analogy.

III

142. Application of these guidelines should not short of their logical reach by invocation of creeds, cults or inner sense of incongruity or outer sense of motivation for or resultant of the economic operations. The ideology of the Act being industrial peace, regulation and resolution of industrial disputes between employer and workmen, the range of this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.

(a) The consequences are (i) professions, (ii) clubs, (iii) educational institutions, (iv) co-operatives, (v) research institutes, (vi) charitable projects and (vii) other kindred adventures, if they fulfill the triple tests listed in I (supra), cannot be exempted from the scope of Section 2(j).

Contention that as sovereignty vests in the people the concept of sovereign functions would include all welfare activities, on the ground that taking of such a view would erode the ratio in Bangalore Water Supply case, observed that “the dichotomy of sovereign and non-sovereign functions does not really exist – it would all depend on the nature of the power and manner of its exercise”. After referring to the three traditional sovereign functions namely legislative, power, the administration of laws and the exercise of the judicial power and also the decisions of the Gujarat High Court in J.J. Shrimali –v- District Development Officer, (1989) 30 Guj. LR 396 : (1989) Lab IC 689 wherein famine and drought relief works undertaken by the State Government were held not to be an “Industry”, the Hon’ble Apex Court observed that “what really follows from this judgement is that apart from the aforesaid three functions, there may be some other functions also regarding which a view could be taken that the same too is a sovereign function.

6. In the above back-drops of the settled principle it cannot be over-sighted that the Management of DRDO is a defence establishment established for the purpose of testing of ammunitions likely to be used by the defence services. There is no material before this Tribunal to establish that the Management-establishment is involved in any profitable business or carrying out any trade or business. On the other hand it cannot be disputed that the defence of the country is a sovereign function and the Management-establishment being part and parcel of the Ministry of Defence can be said to have been involved in sovereign function. Therefore, it is difficult to accept that it comes under the purview of “Industry” as defined under section 2(j) of the Act. This being the conclusion accepted by this Tribunal the maintainability of the reference is apparently doubtful under the I.D. Act.

7. As the reference is not maintainable under the I.D. Act I am not inclined to consider and give any findings on the issue whether the employees of the Management drawing more than Rs. 4200/- grade pay as per 6th C.P.C. is entitled to over-time wages or not.

8. The reference is answered accordingly.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1778.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पोस्ट ऑफिस के वरिष्ठ अधीक्षक, कुरुक्षेत्र, डिवीजन कुरुक्षेत्र एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय सं. II, चंडीगढ़ के पंचाट (एलसीए संख्या 38/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.10.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1778.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LCA No. 38/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the Senior Superintendent of Post Offices, Kurukshetra, Division Kurukshetra and their workman, which were received by the Central Government on 21.10.2016.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH****Present:** Sri Kewal Krishan, Presiding Officer**LCA No. 38/2015**

Registered on 11.12.2015

Smt. Nisha W/o Late Sh. Sanjeev Kumar,
Resident of Pehowa, Distt. Kurukshetra

...Petitioner

VersusThe Superintendent of Post Offices, Kurukshetra,
Division Kurukshetra

...Respondent

APPEARANCES :

For the workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 2.9.2016

Smt. Nisha has filed this application under Section 33(C)(2) of the Industrial Disputes Act, 1947 (hereinafter called the 'Act'), claiming 10 months leave encashment; on the averments that her husband was appointed as Sweeper and expired during duty. That respondent-management is an 'industry' and in view of the letter dated 09.01.1992 and 14.05.2007, she is entitled to leave encashment. That the amount be calculated and paid to her.

The respondent-management filed written statement, controverting the averments and pleaded that as per rules, there is no provision for accumulation of leave and as such, the appellant is not entitled to any encashment of earned leave.

Parties did not lead any evidence.

I have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management.

Sh. R.P. Mehra, learned counsel for the appellant, carried me through the letter dated 14.05.2007 and 9th January, 1992 and submitted that deceased was GDS and "Gramin Dak Sewak" is entitled to encashment of earned leave for 10 months and as such, the applicant is entitled to get the payment.

The letter dated 14.05.2007, which is in All India Services Law Journal XI-2007(3) read as follow:-

"The undersigned is directed to refer to Department of Personnel and Training O.M. No.14028/2/2003-Estt.(L), dated 7.11.2006,(Published in SLJ of June, 2006 as Sl. No.34) forwarded vide MOD OM of even number dated 13.11.2006 on the above subject. It is clarified that the accumulation and encashment limit of earned leave is raised to 300 days from 120 days in respect of industrial employees' w.e.f. 7.11.2006. That is, as industrial employee who is already having 120 days of earned leave as on 1.1.2006 is eligible to get a credit of the leave earned by him/her during the year 2006, subject to a ceiling of 30 days, on 1.1.2007. Thus the total earned leave at his/her credit can become 120+30=150 days as on 1.1.2007 in case he/she has earned the maximum of 30 days of E.L. during 2006."

The letter dated 9th January, 1992 read as follow:-

The undersigned is directed to refer to this Department OM No.P-12012/1/79/LU dated 22.7.1981 and you say that in pursuance of the Award given by the Board of Arbitration(JCM) in CA, Reference No.2 of 1989, the President is pleased to decide that the leave entitlement of Industrial Employees in Central Government Departments other than Railways shall be modified as follow:-

- I) The existing condition of 240 days service for grant of any leave with wages to the Industrial employees stands removed; provided that if in any year an employee is not in service for the year, his entitlement to leave with respect to that year shall be in proportion to the period of his service in that year.*
- II) The restriction on carrying forward leave at the credit of an industrial employee beyond 30 days stands removed;*
- III) The limit of total accumulation of earned leave for the Industrial Employees shall be 120 days.”*

A perusal of both the letters reveals that leave encashment is allowed where there is a provision for accumulation of leave.

It is not disputed that services of the deceased was governed by Conduct and Engagement Rules and now known as “Gramin Dak Sewaks (Conduct and Engagement) Rules 2011” and Rule 7 thereof deal with the leave and read as follow:-

“The Sevaks may be granted paid leave at the rate of 20 days in a year without accumulation or as may be determined by the Government, from time to time:

Provided that-

- (a) Where a Sevak falls to resume duty on the expiry of the maximum period of leave admissible and granted to him, or*
- (b) Where such a Sevak who is granted leave for a period less than the maximum period admissible to him under these rules, remains absent from duty for any period which together with the leave granted exceeds the limit up to which he could have been granted such leave.”*

He shall unless the Government, in view of the exceptional circumstances of the case, otherwise decides, be removed from service after following the procedure laid down in Rule 10.”

Thus, a perusal of this rule show that Gramin Dak Sewak is entitled to only get paid leave @ 20 days in a year and there is no provision to carry forward or encashment of this leave. In view of the specific law enacted, the letters dated 14.5.2007 and 9th January, 1992 has no application to the present case wherein the rules do not provide for the accumulation of leave or encashment thereof.

In result, there is no merit in this case and the same is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1779.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डेबिसिस इंजीनियरिंग वर्क्स, एनटीपीसी/टीटीपीसी के ठेकेदार, तालाकर थर्मल, अंगुल व अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 9/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.06.2017 को प्राप्त हुआ था।

[सं. एल-42011/42/2010-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1779.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 9/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in Annexure, in the industrial dispute between the employers in relation to the Debasis Engineering Works, Contractor of NTPC/TPPC, Talacher Thermal, Angul & Others and their workman, which was received by the Central Government on 13.06.2017.

[No. L-42011/42/2010-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR****Present:**

Shri B. C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 09/2011

Date of Passing Award – 19th May, 2017

Between:

1. M/s. Debasis Engineering Works,
Contractor of NTPC/TTPC, Talcher Thermal,
Angul.
2. The General Manager,
M/s. NTPC Limited,
TTPS, Talcher Thermal, Angul

...1st Party-Managements

(And)

The General Secretary, NTPC
(TTPS) Contract Mazdoor Sangh,
Talcher, Qrs. No. 2RA-139, Sector-II,
At./Po. Talcher, Angul

...2nd Party-Union.

Appearances:

Mr. A.K. Asthana, Manager (HR)	...	For the 1 st Party-Management No. 1
Mr. Debasis Adhikary	...	For the 1 st Party-Management No. 2.
None	...	For the 2 nd Party Union.

AWARD

The Government of India in the Ministry of Labour has referred an industrial dispute existing between the employers in relation to the management of Contractor of NTPC/TTPC, Talcher Thermal and their workman represented through NTPC (TTPC) Contract Mazdoor Sangh in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act vide its letter No. L-42011/42/2010-IR (DU) dated 18.02.2011 with the following schedule.

Whether the action of the management of M/s. Debasis Engineering Works, a contractor of NTPC Ltd., in terminating the services of 11 workmen (as per list enclosed) without following the provisions as laid down under section 25-F of Industrial Disputes Act, 1947 read 25(G) and (H) of the Industrial Disputes Act, 1947 is legal and/or justified? If not, what relief the workmen are entitled to

2. In short, the case of the 2nd party-Union as appears from its statement of claim is that the disputant workmen numbering 12 were engaged as a casual workers on daily wage basis on different dates in between 2000 to 2004 and they were allowed to work in the establishment of the Management No. 2 till 16.08.2008 when they were refused further employment by the Management No. 2. It is the averment of the Union that the disputant workmen were engaged and paid wages directly by the Management No. 2, though they had been shown as contract labourers engaged through Management No. 1. Paper transactions if any, towards showing the disputant workmen as contract labourers of the Management No. 1 are sham and camouflage to deprive them to obtain service benefits from the Management No. 2. The termination/retranchment of the disputant workmen with effect from 16.08.2008 without compliance of the provisions of Section 25-F of the I.D. Act being illegal and unjustified they are required to be reinstated with all back wages and other consequential service benefits including continuity of service.

3. In response to such stand of the Union the Management No. 1 and 2 submitted its written statement denying the averments of the Union. The stand of the Managements are that the disputant workmen were never engaged/employed and paid wages directly by the Management No. 2. They are contract labourers under the control and supervision of the Management No. 1. Being a contractor under the Management No. 2 the Management No. 1 was required to execute work on contract basis as and when required. Accordingly the Management No. 1 was engaging contract workers for a time bound contractual work. Such engagement is coterminous on completion of job or expiry of the term of the

contract. As such, the disputants were neither workmen as defined under the I.D. Act either under the Management No. 1 or Management No. 2. Their engagement being for a specific period and for a particular work, refusal of any extension to their job is not a contravention of any provisions of the I.D. Act. That apart, it has been contended that a tripartite settlement was reached out on 09.07.2010 as a result of which the disputant were given employment as per the terms and conditions of the settlement and there exists no disputes for its adjudication.

4. It is pertinent to mention here that after filing of statement of claim and written statements by the parties when the reference was pending for its adjudication and date was fixed for recording evidence of the 2nd party-Union failed to pursue its claim. Hence, the Managements were allowed to adduce its evidence. Oral testimony of Shri Debasis Adhikary in shape of sworn affidavit was filed by the Management No. 1 and documents like copy of the tripartite settlement and copy of the full and final payment receipt are exhibited in support of the stand of the Managements.

5. The uncontroverted oral testimony of the Management No. 1, Contractor goes to indicate that his evidence is nothing more or less than the repetition of the stand taken by the Managements in their written statements. Furthermore, a copy of the tripartite settlement allegedly reached out between the Management of Contractors of NTPC Limited and the workers represented through NTPC Contract Mazdoor Sangh before the Asst. Labour Commissioner (Central) is filed to strengthen the oral testimony of M.W.-1. The said settlement reveals that most of the disputants were given jobs in the establishment of the Management No. 1. In the above back-drop and in absence of any evidence from the side of the 2nd party-Union, it is difficult to say that any dispute is persisting between the parties for its adjudication. Further, in absence of any evidence from the side of the 2nd party-Union it is next to impossible to determine the nature of employment/engagement given to the disputants and to arrive any conclusion if provisions of Section 25-F was violated on refusal of employment to them by the Managements. On the other hand, there is no reason to disbelieve the uncontroverted testimony of the Management No. 1, contractor. In the above circumstances, there is no other alternative than to reject the statement of claim put-forth by the 2nd party-Union.

6. Accordingly the reference is answered.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1780.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस्टेट प्रबंधक, एस्टेट प्रबंधन इकाई, डीआरडीओ, चांदीपुर, बालासोर व अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 35/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.07.2017 को प्राप्त हुआ था।

[सं. एल-14012/25/2009-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1780.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 35/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in Annexure, in the industrial dispute between the employers in relation to the Estate Manager, Estate Management Unit, DRDO, Chandipur, Balasore & Others and their workman, which was received by the Central Government on 03.07.2017.

[No. L-14012/25/2009-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri B. C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 35/2009

Date of Passing Award – 09th June, 2017

Between:

1. The Estate Manager, Estate Management Unit,
DRDO, Chandipur, Balasore.
2. Shri S.K. Barik, Contractor of Estate
Management Unit, DRDO, At./Po. Chandipur, Balasore

...1st Party-Managements**(And)**

Shri Ganeswar Sha, C/o. Sarathi Behera,
Sovarampur, Balasore

...2nd Party-Workman**Appearances:**

None	...	For the 1 st Party-Management No. 1.
Shri R.N. Rath, Auth. Representative	...	For the 1 st Party-Management No. 2.
None	...	For the 2 nd Party-Workman

AWARD

The award is directed against a reference with the schedule:-

“Whether the action of the management of M/s. S.K. Barik, Contractor of Estate Management Unit, DRDO, in terminating the services of their workman Shri Ganeswar Sha, w.e.f. 30.04.2007 is legal and justified? If not, what relief the workman is entitled to?”

made by the Government of India, Ministry of Labour vide letter No. L-14012/25/2009 – IR(DU), dated 30.09.2009 in exercise of the powers conferred by clause (d) of Sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (herein after referred to as the “Act”).

2. Factual matrix giving rise to the reference as mentioned earlier is that the 2nd party-workman Shri Ganeswar Sha is stated to have been engaged as a cook under EMU, DRDO, Chandipur through contractor Shri S.K. Barik with effect from 4.2.1997. It is alleged that though, he was employed as a contract labour through Shri Barik, he was virtually working directly under control and supervision of the Management No. 1. His salary was paid directly by the said Management. He continued as a cook till 6.8.2007 when he was refused employment on account of he raising allegation that his wage was reduced to Rs. 3,500/- by the contractor. According to him he was neither paid any compensation or notice pay before refusal of employment and as such the refusal of employment being violative of the provisions of the I.D. Act is illegal and unjust and he shall be reinstated along with all back wages.

3. The contractor-Management No. 1 did not make its appearance inspite of notice served on him as a result of which it has been set exparte. The Management No. 2 has contested the claim taking a stand that he entered into with an agreement with Management No. 1 for providing service facility to its NGO mess at Dhamra from 1st April, 2007 to 31st March, 2008 and accordingly he engaged the 2nd party-workman as a Cook with effect from April, 2007 purely on daily wage basis. But, he was found to be an ill tempered and argumentative person, he was found misbehaving the guests of the transit house. It is his further stand that the disputant workman remained absent from duty with effect from August, 2007 and there was no refusal of employment to him. As the 2nd party-workman was nether retrenched nor refused employment he is not entitled to any relief as claimed by him.

4. On the aforesaid pleadings of the parties the following issues have been settled for just and proper adjudication of the reference.

ISSUES

1. Whether the action of the Management of M/s. S.K. Barik, Contractor of Estate Management Unit, DRDO, in terminating the services of their workman Shri Ganeswar Sha, w.e.f. 30.04.2007 is legal and justified?
2. If not, what relief the workman is entitled to?
5. The 2nd party-workman has examined himself as W.W.-1 and adduced only oral evidence to substantiate his claim. Similarly the Management No. 2 has only adduced his examination in chief in sworn affidavit and his cross examination is presumed to have been declined in the event of the workman failing to attend the proceedings of the reference to cross examine the witness.

6. On a close reading of the pleadings and evidence advanced by the parties, it is seen that the workman has claimed to have been engaged from 4.2.1997 till 06.08.2007 when he is stated to have been refused employment. Except this oral assertion there is no document in support of his employment with effect from 4.2.1997. Law is well settled that initial burden lies on the workman to prove his employment as well as his continuity in service for more than 240 days in a twelve calendar months preceding to his alleged refusal of employment. Mere oral assertion in that regard is not sufficient without any corroboration by any sort of documents. In the case at hand the oral evidence of the Management No. 2 and the copy of the agreement made between M/s. S.P. Services and the Management No. 1 clearly indicate that the Management No. 2-Contractor was entrusted to provide service facility to the Transit Mess for the period from 1st April 2007, 31st March, 2008. His oral testimony remains uncontroverted and as such the contentions of the Management No. 2 cannot be out-rightly rejected. In the above backdrop, the 2nd party-workman has failed to adduce any clinching and credible evidence to establish that he was either employed and paid wages directly by the Management No. 1 or the Management No. 2 appointed him with effect from 4.2.1997 and he worked as a Cook in the Transit Mess of Dhamara for more than 240 days continuously and uninterruptedly in a twelve calendar months preceding to his alleged refusal of employment. In absence of any credible evidence the claim and allegation raised by the 2nd party-workman cannot be accepted. Therefore, the 2nd party-workman is not entitled to any relief as claimed by him.

7. The reference is answered accordingly.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1781.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस्टेट प्रबंधक, एस्टेट प्रबंधन इकाई, डीआरडीओ, चांदीपुर, बालासोर व अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 34/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.07.2017 को प्राप्त हुआ था।

[सं. एल-14012/24/2009-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1781.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 34/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in Annexure, in the industrial dispute between the employers in relation to the Estate Manager, Estate Management Unit, DRDO, Chandipur, Balasore & Others and their workman, which was received by the Central Government on 03.07.2017.

[No. L-14012/24/2009-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri B. C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 34/2009

Date of Passing Award – 09th June, 2017

Between:

1. The Estate Manager, Estate Management Unit,
DRDO, Chandipur, Balasore.
2. Shri S.K. Barik, Contractor of Estate
Management Unit, DRDO, At./Po. Chandipur, Balasore

...1st Party-Managements

(And)

Shri S.C. Panigrahi, C/o. Sarathi Behera,
Sovarampur, Balasore

...2nd Party-Workman**Appearances:**

None	...	For the 1 st Party-Management No. 1.
Shri R.N. Rath, Auth. Representative	...	For the 1 st Party-Management No. 2.
None	...	For the 2 nd Party-Workman

ORDER

Authorized representative for the Management No. 2 is present, whereas the 2nd party-workman and the Management No. 1 are found to be absent on repeated calls. It is submitted by the Management No. 2 that despite several adjournments and opportunities extended to the 2nd party-workman, no step is being taken for adducing evidence in support of the claim statement. It is seen from the record that after filing its statement of claim, the 2nd party-workman was not taking steps to pursue the dispute raised by him. In the above circumstance and in absence of any evidence from either side there is no alternative before the Tribunal than to return the reference without any award.

2. The case is disposed of accordingly.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1782.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रबंध निदेशक, मैसर्स अनिल सुरक्षा सेवा, भुवनेश्वर, उड़ीसा व अन्य एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 37/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.06.2017 को प्राप्त हुआ था।

[सं. एल-42011/54/2016-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1782.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 37/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in Annexure, in the industrial dispute between the employers in relation to the Managing Director, M/s. Anil Security Service, Bhubaneswar, Orissa & Others and their workman, which was received by the Central Government on 20.06.2017.

[No. L-42011/54/2016-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR****Present:**

Shri B. C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 37/2016

No. L-42011/54/2016-IR (DU), dated 01/02.06.2016

Date of Passing Order – 17th May, 2017

Between:

1. The Managing Director,
M/s. Anil Security Service,
1/289, Baramunda, Bhubaneswar (Orissa),
Pin – 751 003.

2. M/s. Jagannath Services,
Plot No. 289, Baramunda Housing Board Colony,
Baramunda, Bhubaneswar (Orissa), Pin – 751 003.
3. The Branch (In-charge),
Central Avian Research Institute,
Infront of Kalinga Studio Chhak, Khandagiri,
Bhubaneswar (Orissa) – 751 003

...1st Party-Managements

(And)

The Vice President,
Contract & Construction Labour Union,
32, Ashok Nagar, Bhubaneswar, (Orissa),
Pin – 751 009

...2nd Party-Union

Appearances:

None.	...	For the 1 st Party-Managements.
None	...	For the 2 nd Party-Union.

ORDER

Case is taken up. Parties are absent. The 2nd Party-Union has not filed any statement of claim despite notice being sent through regd. post. In order to give an opportunity to the 2nd party-Union regd. notice was issued on 08.09.2016 fixing 27.10.2016 for appearance and for filing of statement of claim. But neither the 2nd party-Union caused appearance nor it has filed any statement of claim inspite of three adjournments. As such it seems that the 2nd party-Union is not interested in prosecuting its case. However the dispute cannot be adjudicated upon for want of pleadings on behalf of the parties. As such there is no alternative except to return the reference to the Government for necessary action at its end.

2. Accordingly the reference is returned to the Government unanswered for necessary action at its end.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1783.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार हेड, मैसर्स लीडकॉम इंटीग्रेटेड सॉल्यूशंस, प्रोजेक्ट ऑफिस इंडिया लिमिटेड, गुड़गांव व अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 40/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.06.2017 को प्राप्त हुआ था।

[सं. एल-40011/31/2013-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1783.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 40/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in Annexure, in the industrial dispute between the employers in relation to the Head, M/s. Leadcom Integrated Solutions, Project Office India Limited, Gurgaon & Others and their workman, which was received by the Central Government on 22.06.2017.

[No. L-40011/31/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri B. C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar

INDUSTRIAL DISPUTE CASE NO. 40/2013

Date of Passing Order – 12th May, 2017

Between :

1. The Head, M/s. Leadcom Integrated Solutions,
Project Office India Limited, 1005, Sector-30,
Park Center, Gurgaon.
2. Aircel (Dishnet Wireless Ltd.),
7th Floor, Fortune Tower, Chandrasekharapur,
Bhubaneswar (Orissa).
3. M/s. OM Security & Services,
Plot No. 184, Bapujinagar, Sishu Bhawan Chhak,
Bhubaneswar (Orissa)

...1st Party-Managements

(And)

The President,
All Orissa Private Security Karmachari Sangha,
Plot No. 6/255, Jayadev Vihar,
Near Bijupatnaik College,
Bhubaneswar (Orissa)

...2nd Party-Union.

Appearances :

Shri B.P. Pujary ... For the 1st Party-Management No. 2.
None ... For the 1st Party-Management No. 1 & 3.
None ... For the 2nd Party-Union.

ORDER

Authorized representative for the Management No. 2 is only present whereas, rest of the parties including 2nd party-Union are found absent on repeated calls. After filing of statements/pleadings by the parties and settlement of issues the case was fixed today for evidence of the 2nd party-Union. The record further reveals that despite several adjournments from time to time the 2nd party-Union failed to make its appearance or to take any step to adduce its evidence in support of the dispute raised by it. In the above back-drops and in absence of the 2nd party-Union there is no alternative than to presume that either the Union has lost its interest to pursue the dispute for its judicial adjudication or there exists no further dispute between the parties. In the given situation I am constrained to return the reference to the Ministry for taking necessary action at their end.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1784.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाकघर के वरिष्ठ अधीक्षक, रोहतक, डिवीजन रोहतक एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय सं. II, चंडीगढ़ के पंचाट (एलसीए संख्या 39/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.10.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1784.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LCA No. 39/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in Annexure, in the industrial dispute between the employers in relation to the Senior Superintendent of Post Office, Rohtak, Division Rohtak and their workman, which were received by the Central Government on 21.10.2016.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer.

LCA No. 39/2015

Registered on 11.12.2015

Smt. Balkesh W/o Sh. Suresh Pal, Resident of Village and
Post Office Hassan Pur, Tehsil and District Jhajjar

...Petitioner

Versus

The Senior Superintendent of Post Offices,
Rohtak, Division Rohtak

...Respondent

APPEARANCES :

For the Workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 2.9.2016

Smt. Balkesh wife of late Sh. Suresh Pal, has filed this application under Section 33(C)(2) of the Industrial Disputes Act, 1947(hereinafter called the 'Act'), claiming 10 months leave encashment; on the averments that her husband was appointed as EDR and expired on 26.08.2014. That respondent-management is an 'industry' and as per letter 09.01.1992 and 14.05.2007, Extra Departmental Agent is entitled to leave encashment and as such, she is entitled to encashment of the earned leave and the same be calculated and paid to her.

The respondent-management filed written statement, controverting the averments and pleaded that as per rules, there is no provision for accumulation of leave and as such, the appellant is not entitled to any encashment of earned leave.

Partied did not lead any evidence.

I have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management.

Sh. R.P. Mehra, learned counsel for the appellant, carried me through the letter dated 14.05.2007 and 9th January, 1992 and submitted that Gramin Dak Sewak is entitled to encashment of earned leave for 10 months and as such, the applicant is entitled to get the payment.

The letter dated 14.05.2007, which is in All India Services Law Journal XI-2007(3) read as follow:-

"The undersigned is directed to refer to Department of Personnel and Training O.M. No.14028/2/2003-Estt.(L), dated 7.11.2006,(Published in SLJ of June, 2006 as Sl. No.34) forwarded vide MOD OM of even number dated 13.11.2006 on the above subject. It is clarified that the accumulation and encashment limit of earned leave is raised to 300 days from 120 days in respect of industrial employees' w.e.f. 7.11.2006. That is, as industrial employee who is already having 120 days of earned leave as on 1.1.2006 is eligible to get a credit of the leave earned by him/her during the year 2006, subject to a ceiling of 30 days, on 1.1.2007. Thus the total earned leave at his/her credit can become 120+30=150 days as on 1.1.2007 in case he/she has earned the maximum of 30 days of E.L. during 2006."

The letter dated 9th January, 1992 read as follow:-

The undersigned is directed to refer to this Department OM No.P-12012/1/79/LU dated 22.7.1981 and you say that in pursuance of the Award given by the Board of Arbitration(JCM) in CA, Reference No.2 of 1989, the President is pleased to decide that the leave entitlement of Industrial Employees in Central Government Departments other than Railways shall be modified as follow:-

- I) The existing condition of 240 days service for grant of any leave with wages to the Industrial employees stands removed; provided that if in any year an employee is not in service for the year, his entitlement to leave with respect to that year shall be in proportion to the period of his service in that year.*
- II) The restriction on carrying forward leave at the credit of an industrial employee beyond 30 days stands removed;*
- III) The limit of total accumulation of earned leave for the Industrial Employees shall be 120 days.”*

A perusal of both the letters reveals that leave encashment is allowed where there is a provision for accumulation of leave.

It is not disputed that services of the deceased was governed by Conduct and Engagement Rules and now known as “Gramin Dak Sewaks(Conduct and Engagement)Rules 2011” and Rule 7 thereof deals with the leave and read as follow:-

“The Sevaks may be granted paid leave at the rate of 20 days in a year without accumulation or as may be determined by the Government, from time to time:

Provided that-

- (a) Where a Sevak falls to resume duty on the expiry of the maximum period of leave admissible and granted to him, or*
- (b) Where such a Sevak who is granted leave for a period less than the maximum period admissible to him under these rules, remains absent from duty for any period which together with the leave granted exceeds the limit up to which he could have been granted such leave.”*

He shall unless the Government, in view of the exceptional circumstances of the case, otherwise decides, be removed from service after following the procedure laid down in Rule 10.

Again there is Director General instructions at the foot note and Instruction No.1 read as follow:-

“(1) Leave of 10 days for every half year-Extra-Departmental Agent may be granted paid leave at the rate of 10 days for every half year, but there shall be no provision of carry forward or encashment of this leave. This will be implemented with effect from half year beginning from 1st July, 1998.”

Thus, a perusal of this rule show that Gramin Dak Sewak is entitled to only get paid leave @ 10 days in a year and there is no provision to carry forward or encashment of this leave. In view of the specific law enacted, the letters dated 14.5.2007 and 9th January, 1992 has no application to the present case wherein the rules do not provide for the accumulation of leave or encashment thereof.

In result, there is no merit in this case and the same is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1785.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाकघर के वरिष्ठ अधीक्षक, रोहतक, डिवीजन रोहतक एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय सं. II, चंडीगढ़ के पंचाट (एलसीए संख्या 49/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.10.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1785.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LCA No. 49/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in Annexure, in the industrial dispute between the employers in relation to the Senior Superintendent of Post Offices, Rohtak, Division Rohtak and their workman, which were received by the Central Government on 21.10.2016.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

LCA No. 49/2015

Registered on 22.02.2016

Smt. Santosh W/o Late Sh. Suresh, Resident of Village and
Post Office Chmno (Kahnaur), District Rohtak

...Petitioner

Versus

The Senior Superintendent of Post Offices,
Rohtak, Division Rohtak

...Respondent

APPEARANCES :

For the workman

Sh. R.P. Mehra, Adv.

For the Management

Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 6.9.2016

Smt. Santosh, wife of late Sh. Suresh has filed this application under Section 33(C)(2) of the Industrial Disputes Act, 1947(hereinafter called the 'Act'), claiming 10 months pay in lieu of accrued earned leave; on the averments that her husband was appointed as GDS, who expired on 30.06.2011. The Gramin Dak Sewaks(Conduct and Engagement)Rules 2011(hereinafter called the 'Rules')do not permit leave encashment in lieu of accrued earned leave but the same is overridden by Section 25-J of the Act and office memo dated 09.01.1992 and 14.05.2007. That her husband was entitled to get leave encashment for 10 months pay which be calculated and paid to her.

The respondent-management filed written statement, controverting the averments and pleaded that as per rules, there is no provision for accumulation of leave and as such, the husband of the appellant was not entitled to encashment of earned leave.

Parties did not lead any evidence.

I have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management.

Sh. R.P. Mehra, learned counsel for the appellant, carried me through the letter dated 14.05.2007 and 9th January, 1992 and submitted that GDS(Gramin Dak Sewak) is entitled to encashment of earned leave for 10 months and as such, the applicant being the widow of Sh. Suresh, is entitled to get the payment.

The letter dated 14.05.2007, which is in All India Services Law Journal XI-2007(3) read as follow:-

"The undersigned is directed to refer to Department of Personnel and Training O.M. No.14028/2/2003-Estt.(L), dated 7.11.2006,(Published in SLJ of June, 2006 as Sl. No.34) forwarded vide MOD OM of even number dated 13.11.2006 on the above subject. It is clarified that the accumulation and encashment limit of earned leave is raised to 300 days from 120 days in respect of industrial employees' w.e.f. 7.11.2006. That is, as industrial employee who is already having 120 days of earned leave as on 1.1.2006 is eligible to get a credit of the leave earned by him/her during the year 2006, subject to a ceiling of 30 days, on 1.1.2007. Thus the total earned leave at his/her credit can become 120+30=150 days as on 1.1.2007 in case he/she has earned the maximum of 30 days of E.L. during 2006."

The letter dated 9th January, 1992 read as follow:-

The undersigned is directed to refer to this Department OM No.P-12012/1/79/LU dated 22.7.1981 and you say that in pursuance of the Award given by the Board of Arbitration(JCM) in CA, Reference No.2 of 1989, the President is pleased to decide that the leave entitlement of Industrial Employees in Central Government Departments other than Railways shall be modified as follow:-

- I) The existing condition of 240 days service for grant of any leave with wages to the Industrial employees stands removed; provided that if in any year an employee is not in service for the year, his entitlement to leave with respect to that year shall be in proportion to the period of his service in that year.*
- II) The restriction on carrying forward leave at the credit of an industrial employee beyond 30 days stands removed;*
- III) The limit of total accumulation of earned leave for the Industrial Employees shall be 120 days.”*

A perusal of both the letters reveals that leave encashment is allowed where there is a provision for accumulation of leave.

It is not disputed that services of the deceased was governed by Conduct and Engagement Rules and now known as Gramin Dak Sewaks(Conduct and Engagement)Rules 2011 and Rule 7 thereof deals with the leave and read as follow:-

“The Sevaks may be granted paid leave at the rate of 20 days in a year without accumulation or as may be determined by the Government, from time to time:

Provided that-

- (a) Where a Sevak falls to resume duty on the expiry of the maximum period of leave admissible and granted to him, or*
- (b) Where such a Sevak who is granted leave for a period less than the maximum period admissible to him under these rules, remains absent from duty for any period which together with the leave granted exceeds the limit up to which he could have been granted such leave.”*

He shall unless the Government, in view of the exceptional circumstances of the case, otherwise decides, be removed from service after following the procedure laid down in Rule 10.”

Thus, a perusal of this rule show that Gramin Dak Sewak is entitled to only get paid leave @ 20 days for every year and there is no provision to carry forward or encashment of this leave. In view of the specific law enacted, the letters dated 14.5.2007 and 9th January, 1992 has no application to the present case wherein the rules do not provide for the accumulation of leave or encashment thereof.

In result, there is no merit in this case and the same is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1786.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाक विभाग के वरिष्ठ अधीक्षक, अंबाला, डिवीजन अंबाला एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय सं. II, चंडीगढ़ के पंचाट (एलसीए संख्या 57/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.10.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1786.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LCA No. 57/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in Annexure, in the industrial dispute between the employers in relation to the Senior Superintendent of Post Offices, Ambala, Division Ambala and their workman, which were received by the Central Government on 21.10.2016.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

LCA No. 57/2015

Registered on 22.02.2016

Sh. Ram Kumar S/o Late Sh. Harbans Lal,
Resident of Village and Post Office Bhurewala,
Tehsil Naraingarh, District Ambala

...Petitioner

Versus

The Senior Superintendent of Post Offices,
Ambala, Division Ambala

...Respondent

APPEARANCES :

For the workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 2.9.2016

Sh. Ram Kumar son of late Sh. Harbans Lal, has filed this application under Section 33(C)(2) of the Industrial Disputes Act, 1947(hereinafter called the 'Act'), claiming 8 months pay in lieu of accrued earned leave; on the averments that his father was appointed as EDA and retired on attaining superannuation on 24.10.1998, who expired on 20.10.2009. That the Gramin Dak Sewaks(Conduct and Engagement)Rules 2011(hereinafter called the 'Rules')do not permit leave encashment but in view of the Section 25-J of the Act and office memo dated 09.01.1992 and 14.05.2007, the rules are inapplicable and the father of the applicant was entitled to get leave encashment for 8 months pay which be calculated and paid to him.

The respondent-management filed written reply, pleading that the rules, governing the service conditions specifically bar leave encashment and as such, the father of the appellant was not entitled to any amount by way of encashment of earned leave.

Parties did not lead any evidence.

I have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management.

Sh. R.P. Mehra, learned counsel for the appellant, carried me through the letter dated 14.05.2007 and 9th January, 1992 and submitted that Extra Departmental Agent is entitled to encashment of earned leave for 10 months and as such, the applicant is entitled to get the payment for eight months.

The letter dated 14.05.2007, which is in All India Services Law Journal XI-2007(3) read as follow:-

"The undersigned is directed to refer to Department of Personnel and Training O.M. No.14028/2/2003-Estt.(L), dated 7.11.2006,(Published in SLJ of June, 2006 as Sl. No.34) forwarded vide MOD OM of even number dated 13.11.2006 on the above subject. It is clarified that the accumulation and encashment limit of earned leave is raised to 300 days from 120 days in respect of industrial employees' w.e.f. 7.11.2006. That is, as industrial employee who is already having 120 days of earned leave as on 1.1.2006 is eligible to get a credit of the leave earned by him/her during the year 2006, subject to a ceiling of 30 days, on 1.1.2007. Thus the total earned leave at his/her credit can become 120+30=150 days as on 1.1.2007 in case he/she has earned the maximum of 30 days of E.L. during 2006."

The letter dated 9th January, 1992 read as follow:-

The undersigned is directed to refer to this Department OM No.P-12012/1/79/LU dated 22.7.1981 and you say that in pursuance of the Award given by the Board of Arbitration(JCM) in CA, Reference No.2 of 1989, the President is pleased to decide that the leave entitlement of Industrial Employees in Central Government Departments other than Railways shall be modified as follow:-

I) The existing condition of 240 days service for grant of any leave with wages to the Industrial employees stands removed; provided that if in any year an employee is not in service for the year, his

entitlement to leave with respect to that year shall be in proportion to the period of his service in that year.

II) The restriction on carrying forward leave at the credit of an industrial employee beyond 30 days stands removed;

III) The limit of total accumulation of earned leave for the Industrial Employees shall be 120 days.”

A perusal of both the letters reveals that leave encashment is allowed where there is a provision of accumulation of leave.

It is not disputed that services of the deceased was governed by Conduct and Engagement Rules and now known as “Gramin Dak Sewaks(Conduct and Engagement)Rules 2011” and Rule 7 thereof deals with the leave and read as follow:-

“The Sevaks may be granted paid leave at the rate of 20 days in a year without accumulation or as may be determined by the Government, from time to time:

Provided that-

(a) *Where a Sevak falls to resume duty on the expiry of the maximum period of leave admissible and granted to him, or*

(b) *Where such a Sevak who is granted leave for a period less than the maximum period admissible to him under these rules, remains absent from duty for any period which together with the leave granted exceeds the limit up to which he could have been granted such leave.”*

He shall unless the Government, in view of the exceptional circumstances of the case, otherwise decides, be removed from service after following the procedure laid down in Rule 10.

Again there is Director General instructions at the foot note and Instruction No.1 read as follow:-

“(1) Leave of 10 days for every half year-Extra-Departmental Agent may be granted paid leave at the rate of 10 days for every half year, but there shall be no provision of carry forward or encashment of this leave. This will be implemented with effect from half year beginning from 1st July, 1998.”

Thus, a perusal of this rule show that extra departmental agent is entitled to only get paid leave @ 10 days for every half year and there is no provision to carry forward or encashment of this leave. In view of the specific law enacted, the letters dated 14.5.2007 and 9th January, 1992 has no application to the present case wherein the rules do not provide for the accumulation of leave or encashment thereof.

In result, there is no merit in this case and the same is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1787.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाक विभाग के वरिष्ठ अधीक्षक, अंबाला, डिवाजन अंबाला एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय सं. II, चंडीगढ़ के पंचाट (एलसीए संख्या 58/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.10.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1787.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LCA No. 58/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in Annexure, in the industrial dispute between the employers in relation to the Senior Superintendent of Post Offices, Ambala, Division Ambala and their workman, which were received by the Central Government on 21.10.2016.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

LCA No. 58/2015

Registered on 22.02.2016

Smt. Kaushlya Devi W/o Late Sh. Raj Pal,
Resident of Village and Post Office Lakhnaura,
Tehsil Naraingarh, District Ambala

...Petitioner

Versus

The Senior Superintendent of Post Offices,
Ambala, Division Ambala

...Respondent

APPEARANCES :

For the workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 2.9.2016

Smt. Kaushalya Devi, has filed this application under Section 33(C)(2) of the Industrial Disputes Act, 1947(hereinafter called the 'Act'), claiming 10 months pay in lieu of accrued earned leave; on the averments that her husband late Sh. Raj Pal was appointed as EDA and expired on 18.12.2010. That the Gramin Dak Sewaks (Conduct and Engagement) Rules 2011(hereinafter called the 'Rules') do not permit leave encashment but the same is overridden by Section 25-J of the Act and office memo dated 09.01.1992 and 14.05.2007. The rules are inapplicable and her husband was entitled to get leave encashment for 10 months pay which be calculated and paid to her.

The respondent-management filed written reply, pleading that the rules, governing the service conditions specifically bar leave encashment and as such, the husband of the appellant was not entitled to any amount by way of encashment of earned leave.

Parties did not lead any evidence.

I have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management.

Sh. R.P. Mehra, learned counsel for the appellant, carried me through the letter dated 14.05.2007 and 9th January, 1992 and submitted that Extra Departmental Agent is entitled to encashment of earned leave for 10 months and as such, the applicant being the widow of Sh. Raj Pal, is entitled to get the payment.

The letter dated 14.05.2007, which is in All India Services Law Journal XI-2007(3) read as follow:-

"The undersigned is directed to refer to Department of Personnel and Training O.M. No.14028/2/2003-Estt.(L), dated 7.11.2006,(Published in SLJ of June, 2006 as Sl. No.34) forwarded vide MOD OM of even number dated 13.11.2006 on the above subject. It is clarified that the accumulation and encashment limit of earned leave is raised to 300 days from 120 days in respect of industrial employees' w.e.f. 7.11.2006. That is, as industrial employee who is already having 120 days of earned leave as on 1.1.2006 is eligible to get a credit of the leave earned by him/her during the year 2006, subject to a ceiling of 30 days, on 1.1.2007. Thus the total earned leave at his/her credit can become 120+30=150 days as on 1.1.2007 in case he/she has earned the maximum of 30 days of E.L. during 2006."

The letter dated 9th January, 1992 read as follow:-

The undersigned is directed to refer to this Department OM No.P-12012/1/79/LU dated 22.7.1981 and you say that in pursuance of the Award given by the Board of Arbitration(JCM) in CA, Reference No.2 of 1989, the President is pleased to decide that the leave entitlement of Industrial Employees in Central Government Departments other than Railways shall be modified as follow:-

- I) The existing condition of 240 days service for grant of any leave with wages to the Industrial employees stands removed; provided that if in any year an employee is not in service for the year, his*

entitlement to leave with respect to that year shall be in proportion to the period of his service in that year.

II) The restriction on carrying forward leave at the credit of an industrial employee beyond 30 days stands removed;

III) The limit of total accumulation of earned leave for the Industrial Employees shall be 120 days.”

A perusal of both the letters reveals that leave encashment is allowed where there is a provision of accumulation of leave.

It is not disputed that services of the deceased was governed by Conduct and Engagement Rules and now known as “Gramin Dak Sewaks(Conduct and Engagement)Rules 2011” and Rule 7 thereof deals with the leave and read as follow:-

“The Sevaks may be granted paid leave at the rate of 20 days in a year without accumulation or as may be determined by the Government, from time to time:

Provided that-

- (a) *Where a Sevak falls to resume duty on the expiry of the maximum period of leave admissible and granted to him, or*
- (b) *Where such a Sevak who is granted leave for a period less than the maximum period admissible to him under these rules, remains absent from duty for any period which together with the leave granted exceeds the limit up to which he could have been granted such leave.”*

He shall unless the Government, in view of the exceptional circumstances of the case, otherwise decides, be removed from service after following the procedure laid down in Rule 10.”

Again there is Director General instructions at the foot note and Instruction No.1 read as follow:-

“(1) Leave of 10 days for every half year-Extra-Departmental Agent may be granted paid leave at the rate of 10 days for every half year, but there shall be no provision of carry forward or encashment of this leave. This will be implemented with effect from half year beginning from 1st July, 1998.”

Thus, a perusal of this rule show that extra departmental agent is entitled to only get paid leave @ 10 days for every half year and there is no provision to carry forward or encashment of this leave. In view of the specific law enacted, the letters dated 14.5.2007 and 9th January, 1992 has no application to the present case wherein the rules do not provide for the accumulation of leave or encashment thereof.

In result, there is no merit in this case and the same is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1788.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाक विभाग के वरिष्ठ अधीक्षक, अंबाला, डिवीजन अंबाला एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय सं. II, चंडीगढ़ के पंचाट (एलसीए संख्या 60/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.10.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1788.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LCA No. 60/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in Annexure, in the industrial dispute between the employers in relation to the Senior Superintendent of Post Offices, Ambala, Division Ambala and their workman, which were received by the Central Government on 21.10.2016.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH****Present:** Sri Kewal Krishan, Presiding Officer**LCA No. 60/2015**

Registered on 22.02.2016

Smt. Jayanti Devi W/o Late Sh. Mam Raj,
Village and Post Office Hamid Pur,
Tehsil Naraingarh, District Ambala

...Petitioner

Versus

The Senior Superintendent of Post Offices,
Ambala, Division Ambala

...Respondent

APPEARANCES :

For the workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 6.9.2016

Smt. Jayanti Devi, wife of late Sh. Mam Raj has filed this application under Section 33 (C) (2) of the Industrial Disputes Act, 1947 (hereinafter called the 'Act'), claiming 8 months pay in lieu of accrued earned leave; on the averments that her husband was appointed as EDA-BPM on 16.11.1976 and was expired on 26.12.2000. The Gramin Dak Sewaks (Conduct and Engagement) Rule 2011 (hereinafter called the 'Rules') do not permit leave encashment in lieu of accrued earned leave but the same is overridden by Section 25-J of the Act and office memo dated 09.01.1992 and 14.05.2007. That her husband was entitled get leave encashment for 8 months pay which be calculated and paid to her.

The respondent-management filed written statement, controverting the averments and pleaded that as per rules, there is no provision for accumulation of leave and as such, husband of the appellant was not entitled to encashment of earned leave.

Parties did not lead any evidence.

I have heard Sh. R.P.Mehra for the workman and Sh. Sanjeev Sharma for the management.

Sh. R.P. Mehra, learned counsel for the appellant, carried me through the letter dated 14.05.2007 and 9th January, 1992 and submitted that Extra Departmental Agent is entitled to encashment of earned leave for 8 months and as such, the applicant being the widow of Sh. Mam Raj, is entitled to get the payment.

The letter dated 14.05.2007, which is in All India Services Law Journal XI-2007 (3) read as follow:-

"The undersigned is directed to refer to Department of Personnel and Training O.M. No. 14028/2/2003-Estt. (L), dated 7.11.2006, published in SLJ of June, 2006 as Sl. No. 34) forwarded vide MOD om of even number dated 13.11.2006 in the above subject. It is clarified that accumulation and encashment limit of earned leave is raised to 300 days from 120 days in respect of industrial employee w.e.f. 07.11.2006. That is as industrial employee who is already having 120 days of earned leave as on 1.1.2006 is eligible to get a credit of the leave earned by him/her during the year 2006, subject to ceiling of 30 days, on 1.1.2007. Thus the total earned leave at his/her credit can become 120+30=150 days as on 1.1.2007 in case he/she has earned the maximum of 30 days of E.L. during 2006."

The letter dated 9th January, 1992 read as follow:-

The undersigned is directed to refer to this Department OM No. P-12012/1/79/LU dated 22.7.1981 and you say that in pursuance of the Award given by the Board of Arbitration (JCM) in CA, Reference No. 2 of 1989, the President is pleased to decide that leave entitlement of Industrial Employees in Central Government Departments other than Railways shall be modified as follow:-

- I) The existing condition of 240 days service for grant of any leave with wage to the industrial employees stand removed; provided that if in any year an employee is not in service for the year, his entitlement to leave with respect to that year shall be in proportion to the period of his service in that year.
- II) The restriction on carrying forward leave at the credit of an industrial employee beyond 30 days stands removed;
- III) The limit of total accumulation of earned leave for the industrial Employees shall be 120 days.”

A perusal of both the letters reveals that leave encashment is allowed where there is a provision for accumulation of leave.

It is not disputed that services of the deceased were governed by Conduct and Engagement Rules and now known as Gramin Dak Sewaks (Conduct and Engagement) Rules 2001 and rule 7 thereof deals with the leave and read as follow:-

“The sevaks may be granted paid leave at the rate of 20 days in a year without accumulation or as may be determined by the Government, from time to time:

Provided that-

- (a) Where a Sevak falls to resume duty on the expiry of the maximum period of leave admissible and granted to him, or
- (b) Where such a Sevak who is granted leave for a period less than the maximum period admissible to him under these rules, remains absent from duty for any period which together with the leave granted exceeds the limit up to which he could have been granted such leave.”

He shall unless the Government, in view of the exceptional circumstances of the case, otherwise decides, be remove from service after following the procedure laid down in Rule 10.

Again there is Director General instructions at the foot note and Instruction No. 1 read as follow:-

“(1) Leave of 10 days for every half year-Extra-Departmental Agent may be granted paid leave at the rate of 10 days for every half year, but there shall be no provision of carry forward or encashment of this leave. This will be implemented with effect from half year beginning from 1st July, 1998.”

Thus, a perusal of this rule show that extra departmental agent is entitled to only get paid leave @ 10 days for every half year and there is no provision to carry forward or encashment of this leave. In view of specific law enacted, the letters dated 14.5.2007 and 9th January, 1992 has no application to present case wherein the rules do not provide for the accumulation of leave or encashment thereof.

In result, there is no merit in this case and the same is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1789.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाक विभाग के वरिष्ठ अधीक्षक, अंबाला, डिवीजन अंबाला एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय सं. II, चंडीगढ़ के पंचाट (एलसीए संख्या 61/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.10.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1789.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LCA No. 61/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in Annexure, in the industrial dispute between the employers in relation to the Senior Superintendent of Post Offices, Ambala, Division Ambala and their workman, which were received by the Central Government on 21.10.2016.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

LCA No. 61/2015

Registered on 22.02.2016

Smt. Sushma Sawhney W/o Late Sh. Jaiparkash,
Resident of Ward No. 2, Mohlla Pathana,
Tehsil Naraingarh, District Ambala

...Petitioner

Versus

The Senior Superintendent of Post Offices,
Ambala, Division Ambala

...Respondent

APPEARANCES :

For the workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 6.9.2016

Smt. Sushma Sawhney, has filed this application under Section 33(C)(2) of the Industrial Disputes Act, 1947(hereinafter called the 'Act'), claiming 8 months pay in lieu of accrued earned leave; on the averments that her husband late Sh. Jaiparkash was appointed as EDA-BPM, who expired on 17.05.2004. That the Gramin Dak Sewaks(Conduct and Engagement)Rules 2011(hereinafter called the 'Rules') do not permit leave encashment but in view of the Section 25-J of the Act and office memo dated 09.01.1992 and 14.05.2007, these rules are inapplicable and her husband was entitled to get leave encashment for 8 months pay which be calculated and paid to her.

The respondent-management filed written reply, pleading that the rules, governing the service conditions specifically bar leave encashment and as such, the husband of the appellant was not entitled to any amount by way of earned leave.

Parties did not lead any evidence.

I have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management.

Sh. R.P. Mehra, learned counsel for the appellant, carried me through the letter dated 14.05.2007 and 9th January, 1992 and submitted that Extra Departmental Agent is entitled to encashment of earned leave for 10 months and as such, the applicant being the widow of Sh. Jaiparkash, is entitled to get the payment.

The letter dated 14.05.2007, which is in All India Services Law Journal XI-2007(3) read as follow:-

"The undersigned is directed to refer to Department of Personnel and Training O.M. No.14028/2/2003-Estt.(L), dated 7.11.2006,(Published in SLJ of June, 2006 as Sl. No.34) forwarded vide MOD OM of even number dated 13.11.2006 on the above subject. It is clarified that the accumulation and encashment limit of earned leave is raised to 300 days from 120 days in respect of industrial employees' w.e.f. 7.11.2006. That is, as industrial employee who is already having 120 days of earned leave as on 1.1.2006 is eligible to get a credit of the leave earned by him/her during the year 2006, subject to a ceiling of 30 days, on 1.1.2007. Thus the total earned leave at his/her credit can become 120+30=150 days as on 1.1.2007 in case he/she has earned the maximum of 30 days of E.L. during 2006."

The letter dated 9th January, 1992 read as follow:-

The undersigned is directed to refer to this Department OM No.P-12012/1/79/LU dated 22.7.1981 and you say that in pursuance of the Award given by the Board of Arbitration(JCM) in CA, Reference No.2 of 1989, the President is pleased to decide that the leave entitlement of Industrial Employees in Central Government Departments other than Railways shall be modified as follow:-

- I) The existing condition of 240 days service for grant of any leave with wages to the Industrial employees stands removed; provided that if in any year an employee is not in service for the year, his*

entitlement to leave with respect to that year shall be in proportion to the period of his service in that year.

II) The restriction on carrying forward leave at the credit of an industrial employee beyond 30 days stands removed;

III) The limit of total accumulation of earned leave for the Industrial Employees shall be 120 days.”

A perusal of both the letters reveals that leave encashment is allowed where there is a provision of accumulation of leave.

It is not disputed that services of the deceased was governed by Conduct and Engagement Rules and now known as “Gramin Dak Sewaks(Conduct and Engagement)Rules 2011” and Rule 7 thereof deals with the leave and read as follow:-

“The Sevaks may be granted paid leave at the rate of 20 days in a year without accumulation or as may be determined by the Government, from time to time:

Provided that-

(a) *Where a Sevak falls to resume duty on the expiry of the maximum period of leave admissible and granted to him, or*

(b) *Where such a Sevak who is granted leave for a period less than the maximum period admissible to him under these rules, remains absent from duty for any period which together with the leave granted exceeds the limit up to which he could have been granted such leave.”*

He shall unless the Government, in view of the exceptional circumstances of the case, otherwise decides, be removed from service after following the procedure laid down in Rule 10.

Again there is Director General instructions at the foot note and Instruction No.1 read as follow:-

“(1) Leave of 10 days for every half year-Extra-Departmental Agent may be granted paid leave at the rate of 10 days for every half year, but there shall be no provision of carry forward or encashment of this leave. This will be implemented with effect from half year beginning from 1st July, 1998.”

Thus, a perusal of this rule show that extra-departmental agent is entitled to only get paid leave @ 10 days for every half year and there is no provision to carry forward or encashment of this leave. In view of the specific law enacted, the letters dated 14.5.2007 and 9th January, 1992 has no application to the present case wherein the rules do not provide for the accumulation of leave or encashment thereof.

In result, there is no merit in this case and the same is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1790.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाक विभाग के वरिष्ठ अधीक्षक, अंबाला, डिवीजन अंबाला एवं उनके कर्मचारी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय सं. II, चंडीगढ़ के पंचाट (एलसीए संख्या 63/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.10.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेन्द्र जोशी, उप निदेशक

New Delhi, the 25th July, 2017

S.O. 1790.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (LCA No. 63/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in Annexure, in the industrial dispute between the employers in relation to the Senior Superintendent of Post Offices, Ambala, Division Ambala and their workman, which were received by the Central Government on 21.10.2016.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

LCA No. 63/2015

Registered on 22.02.2016

Sh. Jagdish S/o Sh. Munshi Ram,
Resident of Village and Post Office Kot,
District Panchkula

...Petitioner

Versus

The Senior Superintendent of Post Offices,
Ambala, Division Ambala

...Respondent

APPEARANCES :

For the workman : Sh. R.P. Mehra, Adv.

For the Management : Sh. Sanjeev Sharma, Adv.

AWARD

Passed on : 2.9.2016

Sh. Jagdish Chand, has filed this application under Section 33(C)(2) of the Industrial Disputes Act, 1947(hereinafter called the 'Act'), claiming 10 months pay in lieu of accrued earned leave; on the averments that he was appointed as EDA and retired on 30.04.2008. That the Gramin Dak Sewaks(Conduct and Engagement)Rules 2011(hereinafter called the 'Rules')do not permit leave encashment but the same is overridden by Section 25-J of the Act and office memo dated 09.01.1992 and 14.05.2007, the rules are inapplicable and he was entitled to get leave encashment for 10 months pay which be calculated and paid to him.

The respondent-management filed written reply, pleading that the rules, governing the service conditions specifically bar leave encashment and as such, the workman is not entitled to any amount by way of encashment of earned leave.

Parties did not lead any evidence.

I have heard Sh. R.P. Mehra for the workman and Sh. Sanjeev Sharma for the management.

Sh. R.P. Mehra, learned counsel for the appellant, carried me through the letter dated 14.05.2007 and 9th January, 1992 and submitted that Extra Departmental Agent is entitled to encashment of earned leave for 10 months and as such, the applicant is entitled to get the payment.

The letter dated 14.05.2007, which is in All India Services Law Journal XI-2007(3) read as follow:-

"The undersigned is directed to refer to Department of Personnel and Training O.M. No.14028/2/2003-Estt.(L), dated 7.11.2006,(Published in SLJ of June, 2006 as Sl. No.34) forwarded vide MOD OM of even number dated 13.11.2006 on the above subject. It is clarified that the accumulation and encashment limit of earned leave is raised to 300 days from 120 days in respect of industrial employees' w.e.f. 7.11.2006. That is, as industrial employee who is already having 120 days of earned leave as on 1.1.2006 is eligible to get a credit of the leave earned by him/her during the year 2006, subject to a ceiling of 30 days, on 1.1.2007. Thus the total earned leave at his/her credit can become 120+30=150 days as on 1.1.2007 in case he/she has earned the maximum of 30 days of E.L. during 2006."

The letter dated 9th January, 1992 read as follow:-

The undersigned is directed to refer to this Department OM No.P-12012/1/79/LU dated 22.7.1981 and you say that in pursuance of the Award given by the Board of Arbitration(JCM) in CA, Reference No.2 of 1989, the President is pleased to decide that the leave entitlement of Industrial Employees in Central Government Departments other than Railways shall be modified as follow:-

- I) The existing condition of 240 days service for grant of any leave with wages to the Industrial employees stands removed; provided that if in any year an employee is not in service for the year, his*

entitlement to leave with respect to that year shall be in proportion to the period of his service in that year.

II) The restriction on carrying forward leave at the credit of an industrial employee beyond 30 days stands removed;

III) The limit of total accumulation of earned leave for the Industrial Employees shall be 120 days.”

A perusal of both the letters reveals that leave encashment is allowed where there is a provision of accumulation of leave.

It is not disputed that services of the workman were governed by Conduct and Engagement Rules and now known as “Gramin Dak Sewaks(Conduct and Engagement)Rules 2011” and Rule 7 thereof deals with the leave and read as follow:-

“The Sevaks may be granted paid leave at the rate of 20 days in a year without accumulation or as may be determined by the Government, from time to time:

Provided that-

- (a) **Where a Sevak falls to resume duty on the expiry of the maximum period of leave admissible and granted to him, or**
- (b) **Where such a Sevak who is granted leave for a period less than the maximum period admissible to him under these rules, remains absent from duty for any period which together with the leave granted exceeds the limit up to which he could have been granted such leave.”**

He shall unless the Government, in view of the exceptional circumstances of the case, otherwise decides, be removed from service after following the procedure laid down in Rule 10.”

Again there is Director General instructions at the foot note and Instruction No.1 read as follow:-

“(1) Leave of 10 days for every half year-Extra-Departmental Agent may be granted paid leave at the rate of 10 days for every half year, but there shall be no provision of carry forward or encashment of this leave. This will be implemented with effect from half year beginning from 1st July, 1998.”

Thus, a perusal of this rule show that extra departmental agent is entitled to only get paid leave @ 10 days for every half year and there is no provision to carry forward or encashment of this leave. In view of the specific law enacted, the letters dated 14.5.2007 and 9th January, 1992 has no application to the present case wherein the rules do not provide for the accumulation of leave or encashment thereof.

In result, there is no merit in this case and the same is dismissed.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1791.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 29/2007, 40/2007, 27/2008, 36/2007, 09/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.07.2017 को प्राप्त हुआ था।

[सं. एल-29012/31/2006-आईआर (एम),

सं. एल-29012/45/2006-आईआर (एम),

सं. एल-29012/4/2008-आईआर (एम),

सं. एल-29012/39/2006-आईआर (एम),

सं. एल-29012/1/2007-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 25th July, 2017

S.O. 1791.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2007, 40/2007, 27/2008, 36/2007, 09/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure, in the industrial dispute

between the employers in relation to the management of M/s. Mysore Minerals Limited and their workman, which was received by the Central Government on 24.07.2017.

[No. L-29012/31/2006-IR (M),
No. L-29012/45/2006-IR (M),
No. L-29012/4/2008-IR (M),
No. L-29012/39/2006-IR (M),
No. L-29012/1/2007-IR (M)]
RAJESH KUMAR, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT,
BANGALORE

DATED : 30th JUNE 2017

PRESENT : Shri V S RAVI, Presiding Officer

COMMON AWARD

(i) C R No. 29/2007

I Party

Sh. N. Nanjashetty,
S/o Late Sh. Kala Shetty, Kallu
Mallena Halli, M shivara Post,
Bagur Hobli, Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No.L-29012/31/2006-IR(M) dated 01.03.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Shri. N. Nanjasheety w.e.f. 27.06.1998? If not, to what relief the workman is entitled to?”

(ii) C R No. 40/2007

I Party

Smt. Boramma,
W/o Boregowda, MML Worker,
Kallamarana Halli, Kembal Post,
Bagur Hobli, Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No. L-29012/45/2006-IR(M) dated 06.03.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Smt. Boramma w.e.f. 29.06.1998? If not, to what relief the workman is entitled to?”

(iii) C R No. 27/2008

I Party

Sh. A. Boregowda,
S/o Late Sh. Siddegowda,
Village & Post, Bagur Hobli
Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No. L- 29012/4/2008-IR(M) dated 02.04.2008 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the termination of Sh. A. Boregowda by the management of Mysore Minerals Limited w.e.f. 06.06.1998 is justified? If not, to what relief the workman is entitled to?”

(iv) C R No. 36/2007

I Party

Sh. D. Narayana Shetty,
S/o Das Shetty,
Hyothi Gaudanapura Post,
Chandakavadi Hobli,
Chamarajanagara Taluk,
Mysore.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No.L-29012/39/2006-IR(M) dated 06.03.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the action of the management of M/s Mysore Minerals Ltd. in imposing the punishment of forceful retirement from the services by way of order of discharge dated 07.05.1998 on Sh. D. Narayana Shetty, Mazdoor at Hunjanoor Mines, Chamarajanagar Taluk of M/s Mysore Minerals Ltd. is legal and justified? If not, to what relief the workman is entitled and from which date?”

(v) C R No. 09/2007

I Party

Sh. Nanjundaiah,
S/o Late Sh. Mailaraiah, Jamboor Colony,
Jamboor Village and Post, Nuggehalli Hobli,
Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No.L-29012/1/2007-IR(M) dated 23.02.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/ premature superannuating of the services of Sh. Nanjundaiah w.e.f. 22.05.1998? If not, to what relief the workman is entitled to?”

Appearance :

I party : M/s K.T. Govinde Gowda &
Sh. C.G. Dileep Gowda, Advocates
II party : M/s. L. Venkatarama Reddy, Advocate

1. Brief details mentioned in the claim statement by I Party are as follows:-

(i) In CR No. 29/2007, the I Party submits that on 14.07.1980, he has joined the service of the II Party management at its Mining Unit viz., Byrapura Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker under token No. 818. At the time of joining the I Party has furnished his age as 30 years i.e., his date of birth being 14.07.1950. Further, the II Party, Byrapura Chromite Mines Officials, orally refused to allow the I Party to do his work w.e.f 27.06.1998. The I Party has raised the I.D before the Assistant Labour

Commissioner and Conciliation Officer (C), and the Central Government have referred the Reference in CR No. 29/2007.

(ii) In CR No.40/2007, the I Party submits that on 15.01.1979, she has joined the service of the II Party management at its Mining Unit viz., Byrapura Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker. At the time of joining the I Party has furnished her age as 32 years i.e., her date of birth being 15.01.1947. Further, the II Party, Byrapura Chromite Mines Officials, orally refused to allow the I Party to do her work w.e.f 29.06.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 40/2007.

(iii) In CR No.27/2008, the I Party submits that on 18.07.1980, he has joined the service of the II Party management at its Mining Unit viz., Byrapura Chromite Mines, and later transferred to Bhaktarahalli Mines, Channarayapatna Taluk, Hassan District, as a Mining worker under token No. 237. At the time of joining the I Party has furnished his age as 26 years i.e., his date of birth being 18.07.1954. Further, the II Party, Bhaktarahalli Mines Officials, orally refused to allow the I Party to do his work w.e.f 06.06.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 27/2008.

(iv) In CR No. 36/2007, the I Party submits that on 23.09.1987, he has joined the service of the II Party management at its Mining Unit viz., Hunjanooru Mines, Chamarajanagara Taluk, Mysore District, as a Mining worker. At the time of joining the I Party has furnished his age as 30 years i.e., his date of birth being 23.09.1957. Further, the II Party, Hunjanooru Mines Officials, orally refused to allow the I Party to do his work w.e.f 07.05.1998. The I Party has raised the I.D. before the Assistant Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 36/2007.

(v) In CR No.09/2007, the I Party submits that on 12.07.1980, he has joined the service of the II Party management at its Mining Unit viz., Jamboor Chromite Mines, as a Mining worker. At the time of joining the I Party has furnished his age as 20 years i.e., his date of birth being 01.02.1960. Further, the II Party, Jamboor Chromite Mines Officials, orally refused to allow the I Party to do his work w.e.f 22.05.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 09/2007.

2. Brief Common details mentioned on behalf of I Party are as follows:-

The date of birth of the I Party, in fact, has been entered in all the statutory records like EPF, B-register and Service records, etc. The I Party is entitled to continue in the service with the II Party up to the reaching of the age of superannuation i.e., 58 years in the II Party Organization. The II Party by way of an eye wash conducted the so called illegal Medical Examination for the purpose of removing the I Party from the service before reaching the age of superannuation. Further, the II Party has terminated the I Party on the plea that the I Party has reached the superannuation age of 58 years as per the so called illegal Medical Examination. After illegal termination, the I Party has faced unemployment problem and financial hardship, not only by I Party but also the family members of I Party. The entire family has depended only upon the earnings of the I Party in the II Party Organization. The II Party/Management similarly, has, prematurely, retired the co-workers of the I Party on the ground of Medical unfitness and also as per the age certificate, issued by the Medical Officer. The said some of the co-workers have challenged their pre-matured retirement and the age certification, before the Hon'ble High Court of Karnataka, viz.,

- (i) Writ Petition No. 5615/2001 between Smt. K.Dundamma Vs MML, and the same Management of II Party challenged the same in Writ Appeal No. 3460/2001 C/W W.No. 3459/2001. The said Appeal has been rejected on 12.06.2002 confirming the single Judge order dated 29.03.2001. In view of the said decision the Management, reinstated the above mentioned pre-matured retired employee with payment of back wages, and with continuity of service thereon.
- (ii) Writ Petition No. 26101/2001, C/W W.P. Nos. 23798/2001, 23797/2001 & 23794/2001 filed by Sri V.C. Range Gowda and 8 others Vs MML, and the same have been allowed on 01.06.2006.

On account of the illegal payment and other lapses, in the Management of II Party, it has to face administrative problems. The II Party adopted its own tactics, ways and means for terminating the Mining Workers in short cut methods and also, in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to the so-called Medical Examination during the year 1998 in illegal and irregular manner, without disclosing the true fact, to the I Party and also without notifying the so-called Medical Examination, i.e., not by a Doctor of a Rank of Assistant Civil Surgeon as defined in Rule 29-C of the Mines Rules 1995. Hence, the so-called Medical Examination conducted by the II Party is illegal and irregular, and the same is not having any legal sanctity and not sustainable in law as it is violative of Rule 29-C. The I Party has

repeatedly requested the officials of the II Party to provide the work to I Party till reaching the age of superannuation i.e., 58 years. But all the efforts made by I Party to persuade the II Party to take the I Party, on duty, proved in vain because of hostile and vindictive attitude on the part of the II Party. The II Party has no right to refuse the employment to the I Party or to remove the I Party name from the muster rolls in unilateral manner, without following the due process of Law. The II Party used the above illegal, imaginary, hypothetical and unscientific Medical report as its tool for unilaterally deciding the age of I Party and other workers. The II Party unilaterally refused employment to the I Party before the age of superannuation even though the I Party is hale and healthy and entitled to work up to the reaching of the age of superannuation i.e., 58 years. The II Party has not followed the Mandatory provision of Section 25 F, G, H & N of the Industrial Dispute Act, 1947 and Rules 78 and 79 thereon, and the action of the Management is, therefore, void-ab-initio as laid by the Hon'ble Supreme Court of India in the case Sundaramani Vs State Bank of India, Santhosh Gupta Vs State Bank of Patiala, Rober D'Souza Vs Southern Railway, K.S.R.T.C. Bangalore Vs Boraiaha and others and also the same is violative of the Provisions of Industrial Dispute Act, 1947. The II Party has un-necessarily created hardship to the I Party by not providing employment. The II Party Management is not justified in retrenching the services of the I Party in the summary manner without following the principals of Natural justice and fair play. Further, apart from the violation of various provisions of the I.D. Act as stated above, the II Party violated its own Certified Standing Orders. The II Party acted contrary to its own Certified Standing Orders/Service Rules for effecting the prematured, superannuation by way of illegal termination. The I Party submits that, the II Party failed to issue 3 months prior notice or tendered payment of 3 months salary to the I Party before termination of service of the I Party under Rule 24. The I Party belongs to socially and economically weaker section and also, the I Party is the Rural based worker and used to work in Mines, which is in a remote place of the village and the I Party is also an illiterate worker belonging to Economically weaker section & not a matching party to fight against the II Party for the injustice done by the II Party. The I Party is facing financial hardship and mental agony due to stoppage of his/her monthly earnings in the II Party organization and also, due to illegal termination. Also, the I Party is not able to maintain himself and the family with day to day, food and basic needs. The I Party has faced the financial hardship to reach the Labour Department like Assistant Labour Commissioner and Conciliation Officer (C), Hubli from I Party's place, for raising the dispute and also, to set right I Party's grievances. The Officials of the II Party/Management have taken undue advantage of I Party's poverty, illiteracy, economic weakness and social weakness. Ultimately with great hardship, mental agony and with the help of well wishers, the I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli. The I Party is entitled for back wages, continuity of service and other consequential benefits from the date of refusal of employment. The II Party has violated the Provisions of I.D. Act as well as its own Certified Standing Orders/Service Rules as stated above. Under the I.D. Act there is no limitation prescribed for raising the dispute and the Article 137 of Schedule to the limitation Act is not applicable to proceedings under I.D. Act. This point is repeatedly decided by the Hon'ble Supreme Court of India and Hon'ble High Courts of various states namely,

- (i) LLJ-II-2001-pg788-792 [SC], Sapan kumar Pandit Vs U.P. State Electricity Board and Others.
- (ii) LLJ-I-1999-pg 1260-1265 [SC], Ajaib Singh Vs Sirhind Co-operative Marketing-cum-processing Service Society.
- (iii) LLJ-II-1999-pg-482-483[SC], Mahavir Singh Vs U.P. State Electricity Board and Others.
- (iv) LLJ-I-2003-pg 412-414 [MP], Ramadhar Tiwari Vs Union of India and Others.
- (v) LLJ-I-1994-pg 468-471 [All], U.P. State Spinning Mills Co. Vs State of U.P & Others
- (vi) LLJ-II-2003-pg 1143-1145[Ori], Management of Aska Co-operative Central Bank Ltd. Vs State of Orissa.
- (vii) LLJ-I-2002-pg-204-206 [Mad], E.E. Construction Division 2, Mannarpuram, Trichy and Another Vs M.Gajapathy and Another.
- (viii) LLJ-I-2002-pg-1079-1081[Del], Mangal Singh Vs Presiding Officer, Industrial Tribunal No.1, Delhi and Another.
- (ix) LLJ-I-2002-pg-1129-1132[Bom], Haribhau S/o. Gaman Waghchaure Vs State of Maharastra and Another.

Therefore, the I Party prays this Court to pass an award by holding that the action of the II Party Management is not justified in terminating the services of I Party, namely, prematured superannuation of the services of the I Party and also to direct the II Party to reinstate the I Party, with continuity of service, with payment of Full back wages and other consequential benefits from the date of termination till providing employment/reaching the age of superannuation as per the date of birth details registered in the Statutory records like B-register and EPF records and Service records

maintained by the II Party and EPF Authorities and to pay the interest at the rate of 18% from the said due date and also up to the date of payment and further award of cost of the present proceedings, in the interest of justice and also, equity.

3. Brief Common submissions made on behalf of II Party in the counter statement are as follows:-

The II Party states that, the dispute raised by the I Party is time barred and belated, and filed after the lapse of time. Further, the I Party has waited for the result in the case filed by the co-workers, who approached Hon'ble High Court of Karnataka. The success of co-worker of I Party in W.P. No. 5615/2001 and 26101/2001 before Hon'ble High Court of Karnataka inspired the I Party to file this dispute after the lapse of time. Hence, the conduct of the I Party does not deserve any relief at the hands of this Tribunal. Further, the II Party states that, the dispute raised by the I Party is liable to be dismissed on the ground of delay and laches, since the claim made by the I Party is stale and time barred. The II Party has conducted the Medical Examination and the said expert team have examined the I Party and found that, the I Party is not capable to work in a mine, in view of the fact that, the I Party has already reached the age of more than 58 years as on the date of Medical Examination. Further, as per the decision of Management, I Party has been terminated and also given opportunity to prefer an appeal before Appellate Medical Board within 30 days, if the I Party is aggrieved by the said Medical Report. The I Party, who has amicably received the terminal benefits from the II Party, has no right to raise present dispute, after the lapse of time, at the instigation, for the wrongful gain. It is relevant to submit that, the dispute referred by Government of India is itself not maintainable in law. Hence, there is no Industrial Dispute existed or is apprehended. The Medical Examination has been conducted in Scientific Manner on thorough investigation. The I Party is not entitled for any benefits as per law. The I Party is happily working elsewhere since from the date of termination. Further, the statement of the I Party that, the II Party officials failed to consider the reasonable request of the I Party is totally incorrect and false. In fact, the I Party is employed elsewhere and earning salary. The I Party has filed this dispute only for wrongful gain, at the instigation of well-wishers, as admitted by the I Party in the claim statement. The II Party has not acted illegally or arbitrarily. Therefore, the II Party prays to dismiss the dispute filed by the I Party with exemplary costs, in the interest of justice and equity.

4. Already this Court has passed common award dated 27.08.2014. Thereafter, in Writ Petition the Hon'ble Karnataka High Court, has passed the following Order:-

“The matter is remanded to the Central Government Industrial Tribunal-Cum-Labour Court for fresh adjudication of the dispute. The Tribunal shall decide the dispute after giving notice to all the parties and pass an award in accordance with law. All the contentions of both the parties are left open.” Further, notices have been sent for both sides and additional evidence recorded and arguments heard and after the careful perusal and appreciation of material records in the proper perspective the present Common Award is passed.

5. The crucial points/issues that arise for consideration in the present matter are as follows:-

- (i) Whether the present claim has to be rejected on the ground of delay and laches as submitted by the II Party?
- (ii) Whether the I Party has to prefer an appeal as against the medical certificate issued by the medical officer as submitted by the II Party in the counter statement?
- (iii) Whether after the receipt of the terminal benefits, the I Party cannot raise any dispute in the present case?
- (iv) Whether the I Party is entitled to get the relief as claimed in the claim statement, after the careful appreciation of the evidences adduced and documents produced by both the parties, in proper perspective?

6. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 1:-

The I Party has clearly stated in the claim statement itself, and also in the deposition that, I Party belongs to socially and economically weaker section, and the I Party is the rural based worker, and used to work in mines which is in a remote place of a village and I Party is also an illiterate worker, belonging to economically weaker section, and not a fit person, to fight against the II Party and the I Party has repeatedly requested the officials of II Party mines for permitting the I Party to work and also, due to I Party's acquit poverty, I Party has faced huge financial hardship to reach the Labour Department like Assistant Labour Commissioner and Conciliation Officer (C), Hubli from I Party's place, for raising the dispute and also, to set right the I Party's grievances and in such circumstances, only the delay has happened for raising the dispute and the delay caused is not intentional and deliberate one, but only due to the above mentioned various reasons. The II Party has not specifically denied the above mentioned statements made by the I Party in the claim statement. Further, the I Party has also stated that, the officials of the II Party/Management have taken undue advantage of I Party's poverty, illiteracy, economic and social weakness by way of refusing employment, and also, after knowing fully, that the I Party is most incapable in approaching the Labour Authority for redressal of I Party's grievances. The said details is also not specifically disputed by the II Party. Further, I Party has clearly stated in the claim statement that ultimately with great hardship, mental agony and with the help of well wishers, the I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the present

central reference has been made to this Court by the Government of India, as per the above mentioned details. The said submissions made on behalf of I Party are also not specifically disputed on behalf of the II Party. On the other hand, the Assistant Manager of II Party, namely MW-1, has categorically admitted in his evidence that, I Party is an illiterate person. Further, the I Party has filed copies of Order passed in W.P. No. 5615/2001 dated 29.03.2001, W.A. No. 3460/01 c/w W.A. No. 3459/01 dated 12.06.2002 and W.P. No. 26101/01 c/w W.P. Nos. 23798/01, 23797/01 & 23794/01 dated 01.06.2006, as exhibits marked herein below and also MW-1 has admitted in his evidence that the success of the said co-workers in the said Writ Petition and Writ Appeal has inspired the I Party to file the present reference. In the above mentioned facts and circumstances, it is seen that, the I Party is justified in claiming the legal and statutory rights and benefits, due to the unlawful and illegal ways and means followed by the II Party to terminate the service of I Party, without following the principles of natural justice.

7. Further, the I Party has pointed out, in the claim statement, itself that, there is no limitation prescribed for raising the dispute and Article 137 Schedule of the Industrial Dispute Act is not applicable to the present case. Further, the Hon'ble Supreme Court of India, dated 03.12.2010, Mr. Hon'ble Justice. P. Sathasivam and Mr. Hon'ble Justice B.S. Chauhan, in Civil Appeal No. 10231/2010, between Kuldeep Singh Vs G.M. Instrument Design Development and Facilities Centre and Another, it is clearly held as follows:- "The Labour Court dismissed the claim of the appellant on ground of delay (of five and half years) in raising the dispute. The High Court confirmed the Labour Court's award. Hence this present appeal. The impugned award was set aside with costs of Rs. 50,000 to be paid by respondent-management to appellant." The Hon'ble Supreme Court observed that, there is no time limit prescribed for reference under section 10 of the Industrial Dispute Act, 1947. In the present case also, on a careful perusal of above said peculiar facts and vital circumstances and also due to the fact that, the I Party is facing poverty, illiteracy, economic and social weakness and also in the light of the above mentioned various citations, mentioned in the claim statement, it is seen that, the II Party is not justified in raising the objection to the effect that present reference is not maintainable due to the delay and laches. The I Party in the claim statement as well as in the evidence has pointed out that, the I Party is an illiterate and the I Party has repeatedly requested the II Party officials to provide employment in the II Party Organisation. Further, the MW-1, namely the Assistant Manager of the II Party has also admitted that I Party is an illiterate person and it is true to suggest that in the mines there is no shelter from sun and rain and it is true to suggest that there is no health unit and it is true to suggest that, the working conditions as per the mining act have not been provided at the mines. In such circumstances, it is crystal clear that, II Party has not provided the basic and statutory and also necessary facilities, for the proper working conditions and also, for the welfare of the I Party workers.

8. Further, Industrial Dispute Act is a social legislation brought into existence after various Industrial Revolutions, stage by stage and the said act has been enacted to provide minimum and basic facilities for workman and protect his/her employment. Further, II Party cannot take the super technical submission of delay and laches as a protective shield to cover up their lapses and violation of laws. Further, it is the well settled law that, I Party can initiate proceedings for the alleged illegal termination of services of workman en-mass by the II Party. Further, for the effective implementation of the Labour enactment and protecting the interest of workman only the Government have created a Labour Department. Further, it is very pertinent to point out that, the present reference is made by the Government of India, Ministry of Labour with the above mentioned schedule. Hence, this Court is bound to pass appropriate award in accordance with law based upon the facts and circumstances of the present matter. The II Party/Management cannot take super technical and hyper technical measures, so as to avoid payment of the legitimate amounts, payable to the I Party/Workman. Further, it is clearly held in the judgment reported in 1995-II-LLJ 835, between H.S. Vasantsenaiah Vs The Divisional Controller, K.S.R.T.C & Others, as follows:- "Delay in approaching the Labour Court- No ground to deny back wages and other consequential benefits."

9. Further, it is held in the judgment reported in 1999-LLJ-II-pg 482-483 [SC], between Mahavir Singh Vs U.P. State Electricity Board and others, as follows:- "Delay in raising dispute – Labour Court finding termination of workman's service illegal-reference could not be rejected." Also in the judgment reported in 2003-LLJ-I-pg 412-414 [MP], between Ramadhar Tiwari Vs Union of India and others, it is clearly held as follows:- "No limitation laid down for raising dispute under statute - dispute raised after about 5 years - not one which could be refused on ground of delay." Again, in the judgment reported in 1994-LLJ-I-pg 468-471 [All], between U.P. State Spinning Mills Co. Vs State of U.P and others, it is specifically held as follows:- "Lapse of 11 years between raising a dispute and making reference does not lose the character of industrial dispute." Further, in the judgment reported in 2002-LLJ-I-pg 1079-1081 [Del], between Mangal Singh Vs Presiding Officer, Industrial Tribunal No.1, Delhi and another, it is clearly held as follows:- "Relief under Industrial Dispute Act, 1947 not to be denied to workman merely on ground of delay." Also, in the judgment reported in 2002-LLJ-I-pg 1129-1132 [Bom], between Haribhau S/o. Gaman Waghchaure Vs State of Maharashtra and another, it is clearly held as follows:- "Limitation Act does not apply to proceedings under Industrial Dispute Act, 1947- If plea of delay be raised, employer to show real prejudice caused by delay and not rely on it as mere hypothetical defense." In the present case also, considering the above mentioned socio-economic conditions, poverty and illiteracy, of the I Party, it is found that, the appropriate relief, in accordance with law has to be

granted to the workman and the same cannot be denied, as per the mere hypothetical defence taken by the II Party regarding the delay and in fact, the II Party has not established the real prejudice caused by the said delay.

10. Further, in the judgment in the case of Basti Sugar Mills Co. Ltd. Vs State of U.P., (1979) 2 SCC 88, by V. Kishna Iyer, J., it is pointed out as follows:- “Industrial Jurisprudence does not brook nice nuances and tortuous technicalities to stand in the way of just solutions reached in a rough and ready manner. Grim and grimy life-situations have no time for the finer manners of elegant jurisprudence.” Thus, the process of industrial adjudication is an onerous task being guided by the constitutional mandates and aiming at settlement of the industrial dispute on a fair and just basis, tested on the touchstone of social and economic justice. When an industrial dispute is raised, it is a commotion to be pacified by dispensing justice. In such adjudication, not just the right to equality and other Constitutional guarantees, but the aims and ideals of the Constitution enter into the consideration. It is the duty of the Courts to apply directive principles in interpreting the Constitution and the laws. Also, it is reported in Lloyds Bank Ltd Vs. Bundy, (1974) 3 All ER 757 that Lord Denning first clearly enunciated his theory of “inequality of bargaining power”. He began his discussion on this part of the case by stating (at page 763): “There are cases in our books in which the courts will set aside a contract, or a transfer of property, when the parties have not met on equal terms, when the one is so strong in bargaining power and the other so weak that, as a matter of common fairness, it is not right that the strong should be allowed to push the weak to the wall.” In the present case also, it is seen that, the II Party has clearly admitted in the counter statement that, the success of the co-workers of I Party in W.P. No. 5615/2001 dated 29.03.2001, W.A. No. 3460/01 c/w W.A. No. 3459/01 dated 12.06.2002 and W.P. No. 26101/01 c/w W.P. Nos. 23798/01, 23797/01 & 23794/01 dated 01.06.2006, has inspired the I Party to file the present reference and in fact, the I Party has specifically pointed out in the claim statement and evidence that, the I Party is an illiterate person and the I Party is facing poverty, economic and social weakness and the I Party has repeatedly requested the II Party officials to provide employment to the I Party and Assistant Manager of II Party MW-1 has also admitted in his evidence that, I Party is an illiterate person and also the II Party has not established the real prejudice caused to the II Party, by the said delay.

11. Further, the Hon’ble High Court of Karnataka, in W.P. No. 9974/2006 (L-TER) dated 07.01.2015, (Before Mr. Hon’ble Chief Justice D.H. Waghela and Mr. Hon’ble Justice Budihal. R. B.), in the case of The Management of National Aerospace Laboratories Vs Engineering & General Workers Union and the Managing Directors, it is particularly held as follows:- “The jurisdiction of an Industrial Tribunal, therefore, is expansive and creative and not restricted to only enforcing or interpreting the contract of service or the extant legal provisions and it is not-fettered by the limitations of contracts and can even involve extension of existing agreement of the making of a new one, or in general, creation of new obligations or modification of old ones.” In the present case also, for the above mentioned facts and circumstances it is found that, I Party is entitled to get appropriate relief, in accordance with law, and the II Party is not justified in raising the objection on the ground of delay and laches, as per the said jurisdiction of the present Court. Thus, the point is answered in favour of the I Party.

12. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 2:-

The MW-1 the Assistant Manger of II Party, who has given evidence on behalf of II Party has admitted that, it is true to suggest that, there is no health unit and the working conditions as per the mining act have not been provided at the Mines. The said admission is also clinchingly established the various above mentioned allegation made as against the II Party. Further, MW-1 has admitted that, it is true to suggest that, as per the provisions of the mining act there should be a qualified doctor to attend the I Party workers at the mining site. If it is so, then there is no need for the II Party to get the doctor from Hatti Gold Mines and to subject the I Party to medical examination. On that ground only, I Party has clearly stated in the claim statement that, as per the illegal medical certificate, the social and economic weaker section person of the I Party has been refused to continue the work by the II Party.

13. Further, MW-1 namely, the Assistant Manager of II Party/Management has admitted that the II Party company has suffered loss of 21 crores due to mis-management and it is also true to suggest that, due to the said mis-management, the financial crisis has occurred and it is true to suggest, having suffered the said loss the management thought of reducing the number of workers and it is true to suggest that, the Management ordered for medical examination of all the mining workers. For the said reasons only, I Party has categorically stated in the claim statement that, II Party has suffered huge loss due to mis-management and in the way of reducing the number of workers they have conducted illegal medical examination and terminated several workers including I Party. Further, MW-1 admitted that, to examine the workers doctors, have come from Hatti Gold Mines Ltd. However, he has admitted, that he does not know the names and qualifications of those doctors.

14. Further, in the counter statement the II Party has stated that, the I Party has been given opportunity to prefer an appeal before Appellate Medical Board within 30 days, if the I Party is aggrieved by the Medical Report. However, the MW-1 has categorically admitted that, it is true to suggest that, they have not produced the Medical certificate issued by the Doctor who has examined the I Party health condition and it is also true to suggest that, the Medical From ‘O’ is in English language. At the same time, the MW-1 has admitted that, I Party workers are illiterate workers. Hence, it is

found that the said medical certificate has not been issued in the language known to the workers/I Party and also not understood by the I Party and in fact, the said medical certificate is also not submitted to this Court by the II Party. In such circumstances, it is too much on the part of II Party to content that I Party has got the appeal remedy as per the medical certificate and the workers have not availed the appeal remedy and hence they cannot file the present case before this Court. Further, MW-1 has admitted in his evidence that, the Doctors have not conducted the medical examination in his presence and he does not know in what respect the I Party has been found unfit to continue in service and he has to verify in the office whether copy of notice issued to I Party after medical examination or acknowledgement regarding service of notice on the I Party is available or not. So, the MW-1 has not produced the relevant records to establish that, after medical examination, proper record has been issued to I Party to appeal before 30 days. On the other hand, MW-1 has categorically admitted that, II Party has not produced the Medical certificate issued by the Doctor who has examined the I Party. Above all, MW-1 has admitted that, it is true to suggest that, I Party has not been issued with charge sheet and no enquiry has been conducted before the termination of I Party's service. The said categorical admission of MW-1 shows that, II Party has not terminated the I Party as per the principles of natural justice.

15. Further, MW-1 has admitted that, it is true to suggest that as per the clauses 18 and 24 any termination has to be followed by enquiry along with 3 months notice pay. However, MW-1 has admitted that, I Party has not been issued with charge sheet and also, enquiry has been conducted. Hence, it is crystal clear that, II Party has not terminated the I Party in accordance with law. Further, MW-1 has admitted that, termination order has not been attached with copy of Medical Certificate pertaining to I Party. Furthermore, MW-1 has admitted that, he does not know in what respect the Medical Officer opined that, the I Party is being medically unfit. Further, MW-1 has admitted that, it is true that, II Party has not taken any permission from Labour Ministry or Labour Secretary under the provisions of I.D. Act for terminating services of several employees on the basis of medical grounds. Further, MW-1 has specifically admitted in his evidence that, it is true to suggest that I Party is the illiterate person and it is true to suggest that company has not furnished to the I Party the Kannada Version/translation of Medical Certificate which is in English and the company has enhanced the age of employees to 60 years w.e.f 17.07.2008. In the light of the above mentioned facts and circumstances it is found that, the II Party is not justified in submitting that, the I Party has to prefer only the appeal as against the medical certificate issued by the medical officer. Thus, the point/issue is answered as against the II Party.

16. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 3:- The I Party has stated in the claim statement that, he is entitled to work till attending the age of superannuation and the I Party's actual date of birth is registered in EPF, B-register and Service records, etc and suddenly, the II Party has refused to provide employment to the I Party, as per the so-called illegal medical examination and the co-workers have challenged there pre-matured retirements and age certification before the Hon'ble High Court of Karnataka, viz.,

- (i) Writ Petition No. 5615/2001 between Smt. K.Dundamma Vs MML, and the same Management of II Party challenged the same in Writ Appeal No. 3460/2001 C/W W.No. 3459/2001. The said Appeal has been rejected on 12.06.2002 confirming the single Judge order dated 29.03.2001. In view of the said decision the Management reinstated the above mentioned pre-matured retired employee with payment of back wages, with continuity of service thereon.
- (ii) Writ Petition No. 26101/2001, C/W W.P. Nos. 23798/2001, 23797/2001 & 23794/2001 filed by Sri V.C. Range Gowda and 8 others Vs MML, and the same has been allowed on 01.06.2006. The MW-1, the Assistant Manager of II Party has also admitted the said details, in his evidence. Further, the I Party has specifically pointed out that, on account of administrative problems faced by the II Party, the II Party adopted its own tactics, ways and means for terminating the Mining Workers in short cut methods and also, in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to so-called Medical Examination during the year 1998 in illegal and irregular manner, without disclosing the true fact, to the I Party and also without notifying the so-called Medical Report i.e., not by a Doctor of a Rank of Assistant Civil Surgeon as defined in Rule 29-C of the Mines Rules 1995 and hence, the so-called Medical Examination conducted by the II Party is illegal and irregular, and the same is not having any legal sanctity and not sustainable in law as it is violative of Rule 29-C. The MW-1, Assistant Manager of II Party has candidly admitted in his evidence that, due to mis-management, the II Party has suffered administrative problems, and hence, the II Party has decided to terminate the services of the I Party workers.

17. Further, it is specifically pointed out by the I Party that, II Party has no right to refuse the employment to the I Party without following the due process of Law and the II Party used the illegal, imaginary, hypothetical and unscientific Medical report as its tool for unilaterally deciding the age of I Party and other workers even though the correct age is mentioned in the EPF, B-register and Service records, and I Party is hale and healthy and entitled to work up to the age of superannuation. In the evidence also, I Party has stated the said details mentioned in the claim

statement. Further, in the cross examination, I Party has clearly pointed out that, it is not true to suggest that, as per the request made by the union the II Party subjected the I Party to medical check up and found the I Party unfit to continue in service. In the additional evidence also, the I Party has pointed out that, it is not true to suggest that as on termination, all amounts due to I Party have been received and the I Party has filed the present case, without any justification. Further, the II Party has also not produced any relevant records, to establish that, the II Party has paid all the amounts due to I Party as on the date of termination. Further, it is observed in the judgment reported in 1984-I-LLJ 388(SC) as follows:- “Acceptance of retirement benefits – Acceptance of retirement benefits by the workmen concerned – Whether precluded from raising Industrial Disputes Challenging Orders of retirement. On the materials placed by the management, held, neither a case of acquiescence nor a case of waiver on the part of workmen was made out – Held, the workmen were entitled to wages for the period between the dates of retirement and the dates of their reaching the age of 58 years.” Also, in the judgment reported in 1997-II-LLJ 228(SC) it is held as follows:- “There is no statutory estoppels in favour of the Officer.” Further, it is the settled law that, there is no estoppel as against the statutory rights/benefits, which the I Party/workman is entitled to get under the provisions of the Industrial Disputes Act, 1947 and the II Party has also not established that, the action has been taken by the II Party as against the I Party, as per the principles of natural justice and also, as per the procedure and practice to be followed in accordance with law. In the light of the above mentioned reasons, facts and circumstances it is found that, the II Party is not justified in submitting that, after the receipt of the terminal benefits the I Party cannot raise any dispute in the present case and thus, the point/issue is answered as against the II Party.

18. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 4:-

The I Party has categorically stated that, due to mis-management the II Party has suffered a loss and hence, the II Party has found its own tactics, ways and means for terminating the mines workers in short cut methods and also in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to so-called Medical Examination during the year 1998 in illegal and irregular manner. Further, MW-1 has admitted in his evidence that the II Party has entrusted the work to private party in spite of availability of technical persons and machinery in the year 1995-1996 and hence, the II Party company has suffered a loss of about Rs. 21 crores and it is also true to suggest that, due to said mis-management the financial crisis occurred and also it is true to suggest that, having suffered the said loss the management thought of reducing the number of workers. Hence, it is clear that, the MW-1 of II Party has also admitted the said submissions made by the I Party in the claim statement. Further, MW-1 has admitted that, he cannot right now give the date, month and year of notice served to I Party and it is true to suggest that, I Party has not been issued with charged sheet and no enquiry has been conducted before the termination of the I Party. Further, MW-1, admitted that, it is true to suggest that as per the clause 18 and 24 any termination has to be followed by enquiry along with 3 months notice pay. However, MW-1 has clearly admitted that 3 months notice pay has not been paid to the I Party by the II Party.

19. Further, MW-1 has admitted in his evidence that, it is true to suggest that, there is Statutory Report, B Register and Provident Fund Register. Further, I Party has categorically stated that, his date of birth has been entered in the Statutory Report, B Register and Provident Fund Register and the II Party without any valid reasons pre-maturedly terminated the service of the I Party. Further, the date of birth of I Party mentioned in the claim statement is the same as mentioned in the employees register, which is marked as Ex M-1. Also, the Circular relating to enhancing the superannuation age from 58 years to 60 years to the workers of II Party, is applicable only to persons who are in employment as on 17.07.2008. Further, MW-1 has clearly admitted that, it is true to suggest that, as per Clause 18.3 of CDPR rules, the changes in the date of birth, as entered in the company record, can only effected on a judgment of a competent Court and except on a judgment of a Court, the date of birth once recorded, will not be changed at the request of the Officer/Employee under any circumstances. For that reason only, I Party has clearly stated that, the II Party has terminated the service of I Party pre-maturedly without any valid reasons. Further, the act of the II Party, certainly, is not proper and legal and as much as, no valid reasons have been furnished by the II Party for not producing the medical certificate issued to the I Party by the II Party and no valid reason has been furnished by the II Party as to what prevented the II Party in not following the principles of natural justice and also for not producing the material records, though they are very important records, to prove the aforesaid details mentioned in the counter statement filed on behalf of II Party. Further, on the careful perusal of material records mentioned in the Exhibits list, it is seen that, II Party has refused to provide work to the I Party without following the due process of law. Further, it is found that, there is discrimination and also violation of fundamental right caused to the I Party and it is not proper and also, not legal to give forceful retirement to I Party, by the II Party, without following the due process of law.

20. Further, it is seen that, the II Party has not terminated the service of the I Party as per the Principles of Preponderance of Probability. Further, no injustice can be caused by the II Party to the I Party and I Party cannot be victimized due to the actions of the II Party without any valid reasons. Further, it is relevant to mention that, the I Party/workman has been punished by II Party without adopting the procedure known under law. Further, the underlying aim and object of adjudication of an Industrial Dispute is, in effect, dispensation of social and economic

justice and translating fundamental rights as well as directive principles into some tangible relief. The ultimate object is to see that industrial disputes are settled by industrial adjudication on principles of fair play and justice. Further, the awarding of reinstatement does not amount to automatic conferment of back wages as held in 2009 (4) LLJ 667 (SC) Malla C.N. Vs State of Jammu and Kashmir & others. Further, it is held by the Hon'ble Supreme Court, in the case of APSRTC Vs B.S. David Pal, reported in 2006 (2) SCC 282, that the entitlement of back wages is not automatic on reinstatement. Awarding of back wages, depend upon other factors and circumstances. The I Party has pointed out in the claim statement that the I Party has been thrown out of employment and is facing hardship. In the affidavit also, the I Party has stated that with no financial income the I Party is facing great hardship. However, the claim of the workman that, the I Party is entitled for the full back wages, cannot be considered, having regard to fact that the I Party has not performed any work for II Party from 1998 to the date of superannuation, for the several years, and also, in order to balance the interest of both the parties, by adopting the balancing test or balancing process in the proper manner, this Court is of the considered opinion that in the facts and situation of the present case, 50% back wages and other consequential benefits only can be granted to the I Party. In the claim statement, the I Party has claimed interest, however the I Party has not enlightened the fact that the I Party is entitled to get interest also as prayed for in the claim statement by adducing relevant evidence and appropriate records. Hence, it is found that, the I Party is not entitled to get interest amount for the above mentioned factual reasons and also legal grounds.

21. Further, in the judgment reported in 2010-I-LLJ-861(SC), in C.A. No. 2874/2009, dated 28.04.2009, (Before Mr. Justice Tarun Chatterjee and Mr. Justice H.L. Dattu), in the case of Malwa Vanaspati & Chemical Co. Ltd. Vs Rajendra, it is held as follows:- "Back Wages – Entitlement for full back wages – Depends upon facts and circumstances of each case – Employee reinstated in service – Question of termination or reinstatement not in dispute – Employee only entitled to 50% back wages." Also, in the judgment reported in AIR 2009 Supreme Court 240, in C.A. No. 5425/2008, dated 02.09.2008, (Before Mr. Justice Tarun Chatterjee and Mr. Justice Aftab Alam), in the case of M.P. Electricity Board & Ors Vs Maiku Prasad, it is held as follows:- "Industrial Dispute Act (14/1947), Sch. 2, Item 6 – Back wages – Curtailment – Respondents' service terminated for unauthorised absence – Termination set aside by Labour Court – Direction for reinstatement and payment of full back wages passed – Considering long period between termination and reinstatement for which respondent has not worked – Back wages reduced to 50%." Further, in the judgment reported in 2010-I-LLJ-861(SC), in C.A. No. 2874/2009, dated 28.04.2009, (Before Mr. Justice Tarun Chatterjee and Mr. Justice H.L. Dattu), in the case of Malwa Vanaspati & Chemical Co. Ltd. Vs Rajendra, it is held as follows:- "Back Wages – Not to be granted mechanically, upon termination of service being held illegal- Service of workman terminated in 1987 – Labour Court gave its award in 2002 holding termination illegal – In circumstances of case, 50% back wages held proper and payment thereof accordingly directed." In the present case also, it is found that, the I Party is entitled to get 50% of the amount, out of the total amount of the monetary benefits with continuity of service, and other consequential benefits that I Party would have received in the absence of the impugned punishment of refusal to provide employment, by the II Party.

22. Further, in the judgment reported in 2009-I-LLJ 1 [SC], between Senior Regional Manager, TASMAL Ltd., and another Vs The M. Raviselvam, it is held as follows:- "Back wages-payment of back wages questioned- On reinstatement, full back wages is not to be paid automatically. It depends upon facts of each case. In the present case order for payment of back wages modified to the extent of 50% to be paid by the Management." And in the judgment reported in 1999-LLJ-I-pg 1260-1265 [SC], between Ajaib Singh Vs Sirhind Co-operative Marketing-Cum-Processing Service Society, it is clearly held as follows:- "Delay in seeking relief by workman against Termination of Service- Article 137 of Schedule to Limitation Act not applicable to proceedings under I.D. Act – Workman entitled to 60% of back wages." Further, in the judgment reported in 1990 [61] FLR 768, between Delhi Transport Corporation Vs D.T.C. Mazdoor Congress and others, it is held as follows:- "A confirmed and permanent employee-Terminated without one month's notice or pay in lieu of and without holding enquiry and affording any opportunity-Termination was illegal-Principles of natural justice violated." In the present case also, the II Party has terminated the I Party without following the Principles of natural justice and without holding enquiry and also without offering opportunity to the I Party to put forth the his/her defence. Further, in the judgment reported in 2010-I-LLJ 682 [Bom], between Santhosh Kumar, S/o Babulal Gupta Vs Sub-Area Manager, Western Coal Fields Ltd., Maharastra and another, it is held as follows:- "Dismissal of workman from service – no enquiry held – termination order not served on workman – punishment held disproportionate – deprivation of 50% back wages with warning issued to workman held would be proper." Further, the II Party has stated in the counter statement that, the I Party, on medical examination, has found to be unfit to work. However, in the same counter statement II Party has stated that, I Party is happily working elsewhere since the date of termination and the I Party is working elsewhere also earning salary. In such circumstances, it is seen that, the submissions made by the II Party in the counter statement are self contradictory. On that ground also II Party is not justified in terminating the services of I Party without following the principles of natural justice, fairness and reasonableness. Further, on the totality of the above mentioned facts and circumstances, and also, after taking into consideration the evidences and exhibits mentioned herein below, in the proper perspective, the following award is passed, in the best interest of justice, equity and fair play.

(i) CR No. 29/2007 N. Nanjashetty Vs MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/N. Nanjashetty with effect from 27.06.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 27.06.1998 till the I Party attains the age of retirement i.e, 14.07.2008 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(ii) In CR No. 40/2007 Boramma Vs MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/Boramma with effect from 29.06.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 29.06.1998 till the I Party attains the age of retirement i.e, 15.01.2005 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(iii) In CR No. 27/2008 A. Boregowda Vs MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/A. Boregowda with effect from 06.06.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 06.06.1998 till the I Party attains the age of retirement i.e, 18.07.2012 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(iv) In CR No. 36/2007 D Naravana Shetty Vs MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/D Naravana Shetty with effect from 07.05.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 07.05.1998 till the I Party attains the age of retirement i.e, 23.09.2015 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(v) In CR No. 09/2007 Nanjundaiah Vs MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination from the service of I party/Nanjundaiah, w.e.f 22.05.1998 and II Party, is directed to reinstate and to grant the monetary benefits to the I Party with continuity of service, and other consequential benefits that, he would have received in the absence of the impugned punishment of termination from service, but with 50% back wages to the I Party, and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 30th June, 2017)

V. S. RAVI, Presiding Officer

(i) **In CR No. 29/2007 N. Nanjashetty Vs MML****List of Witness on the side of I Party:**

WW 1	Sh. N. Nanjashetty, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-2	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-3	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-4	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(ii) **In CR No. 40/2007 Boramma Vs MML****List of Witness on the side of I Party:**

WW 1	Smt. Boramma, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	29.06.1998	Termination order issued to I Party
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-5	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(iii) In CR No. 27/2008 A. Boregowda Vs MML**List of Witness on the side of I Party:**

WW 1	Sh. A. Boregowda, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-2	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-3	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-4	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(iv) In CR No. 36/2007 D Narayana Shetty Vs MML**List of Witness on the side of I Party:**

WW 1	Sh. D Narayana Shetty, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Employees Pension Scheme Form
Ex W-2	07.05.1998	Termination order issued to I Party
Ex W-3	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-4	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-5	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-6	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

(v) **In CR No. 09/2007 Nanjundaiah Vs MML****List of Witness on the side of I Party:**

WW 1	Sh. Nanjundaiah, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-2	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-3	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-4	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1792.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसूर मिनरल्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 31/2007, 34/2007, 35/2007, 42/2007, 99/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.07.2017 को प्राप्त हुआ था।

[सं. एल-29012/33/2006-आईआर (एम),

सं. एल-29012/37/2006-आईआर (एम),

सं. एल-29012/38/2006-आईआर (एम),

सं. एल-29012/51/2006-आईआर (एम),

सं. एल-29012/25/2007-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 25th July, 2017

S.O. 1792.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2007, 34/2007, 35/2007, 42/2007, 99/2007,) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Mysore Minerals Limited and their workman, which was received by the Central Government on 24.07.2017.

[No. L-29012/33/2006-IR (M),

No. L-29012/37/2006-IR (M),

No. L-29012/38/2006-IR (M),

No. L-29012/51/2006-IR (M),

No. L-29012/25/2007-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**DATED : 30th JUNE 2017**PRESENT** : Shri V S RAVI, Presiding Officer**COMMON AWARD****(i) C R No. 31/2007****I Party**

Smt. Lakshamma,
W/o Thimma Shettru, MML Worker,
Kembalu Village and Post,
Bagur Hobli, Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No.L-29012/33/2006-IR(M) dated 01.03.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Smt. Lakshamma w.e.f. 09.06.1998? If not, to what relief the workman is entitled to?”

(ii) C R No. 34/2007**I Party**

Sh. Venkatesh,
S/o Late Nanjaiah, M K Hoosru,
M Shivara Post, Channarayapatna Taluk,
Bagur Hobli,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No. L-29012/37/2006-IR(M) dated 02.03.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Sh. Venkatesh w.e.f. 28.06.1998? If not, to what relief the workman is entitled to?”

(iii) C R No. 35/2007**I Party**

Sh. B. Chikke Gowda,
S/o Late Siddegowda, MML Worker,
Bidare Village, Kembalu Post,
Bagur Hobli, Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No. L- 29012/38/2006-IR(M) dated 02.03.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Sh. B. Chikke Gowda w.e.f. 25.05.1998? If not, to what relief the workman is entitled to?”

(iv) **C R No. 42/2007**

I Party

Sh. K N Nanjunde Gowda,
S/o Late Sh. Nanje Gowda, Karehalli,
Village & Post, Bagur Hobli,
Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No.L-29012/51/2006-IR(M) dated 06.03.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the action of the management of Mysore Minerals Limited in imposing the punishment of forceful retirement from the services w.e.f. 11.09.1998 by way of order of discharge dated 12.08.1998 on Sh. K.N. Nanjunde Gowda, foreman, Nidagallu Granite Quarry (Kanakapura Taluk, Bangalore District) of M/s Mysore Minerals Ltd. is legal and justified? If not, to what relief the workman is entitled and from which date?”

(v) **C R No. 99/2007**

I Party

Sh. Chandrappa,
S/o Late Revanna, MML Worker,
BannakereVillage, Baddikere Post,
Nuggehalli Hobli Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No.L-29012/25/2007-IR(M) dated 22.08.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the action of the management of Mysore Minerals Limited in terminating the services/premature superannuating of the services of Sh. Chandrappa w.e.f. 16.04.1998 is justified? If not, to what relief the workman is entitled to?”

Appearance :

I party : M/s K.T. Govinde Gowda &
Sh. C.G. Dileep Gowda, Advocates

II party : M/s. L. Venkatarama Reddy, Advocate

1. **Brief details mentioned in the claim statement by I Party are as follows:-**

(i) In CR No. 31/2007, the I Party submits that on 11.05.1982, she has joined the service of the II Party management at its Mining Unit viz., Bhaktharahalli Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker. At the time of joining the I Party has furnished her age as 41 years i.e., her date of birth being 11.05.1941. Further, the II Party, Bhaktharahalli Chromite Mines Officials, orally refused to allow the I Party to do her work w.e.f 09.06.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), and the Central Government have referred the Reference in CR No.31/2007.

(ii) In CR No. 34/2007, the I Party submits that on 12.11.1979, he has joined the service of the II Party management at its Mining Unit viz., Byrapura Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker under token No. 614. At the time of joining the I Party has furnished his age as 31 years i.e., his date of birth being 12.11.1948. Further, the II Party, Byrapura Chromite Mines Officials, orally refused to allow the I Party to do his work w.e.f 28.06.1998. The I Party has raised the I.D before the Assistant Labour

Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 34/2007.

(iii) In CR No. 35/2007, the I Party submits that on 14.01.1980, he has joined the service of the II Party management at its Mining Unit viz., Byrapura Chromite Mines, Arasikere Taluk, Hassan District, as a Mining Worker. At the time of joining the I Party has furnished his age as 34 years i.e., his date of birth being 14.01.1946. Further, the II Party, Byrapura Chromite Mines Officials, orally refused to allow the I Party to do his work w.e.f 25.05.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 35/2007.

(iv) In CR No. 42/2007, the I Party submits that on 30.04.1977, he has joined the service of the II Party management at its Mining Unit viz., Thagadur Chromite Mines, Arasikere Taluk, Hassan District, and the I Party is a high skilled worker and not worked in the Managerial Capacity, and later, transferred to Nidagallu Granite quarry. At the time of joining the I Party has furnished his age as 25 years i.e., his date of birth being 01.09.1952. Further, the II Party, Nidagallu Granite quarry Officials, orally refused to allow the I Party to do his work w.e.f 12.08.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 42/2007.

(v) In CR No. 99/2007, the I Party submits that on 06.10.1982, he has joined the service of the II Party management at its Mining Unit viz., Jamboor Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker under token No. 217. At the time of joining the I Party has furnished his age as 35 years i.e., his date of birth being 06.10.1947. Further, the II Party, Jamboor Chromite Mines Officials, orally refused to allow the I Party to do his work w.e.f 16.04.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 99/2007.

2. Brief Common details mentioned on behalf of I Party are as follows:-

The date of birth of the I Party, in fact, has been entered in all the statutory records like EPF, B-register and Service records, etc. The I Party is entitled to continue in the service with the II Party up to the reaching of the age of superannuation i.e., 58 years in the II Party Organization. The II Party by way of an eye wash conducted the so called illegal Medical Examination for the purpose of removing the I Party from the service before reaching the age of superannuation. Further, the II Party has terminated the I Party on the plea that the I Party has reached the superannuation age of 58 years as per the so called illegal Medical Examination. After illegal termination, the I Party has faced unemployment problem and financial hardship, not only by I Party but also the family members of I Party. The entire family has depended only upon the earnings of the I Party in the II Party Organization. The II Party/Management similarly, has, prematurely, retired the co-workers of the I Party on the ground of Medical unfitness and also as per the age certificate, issued by the Medical Officer. The said some of the co-workers have challenged their pre-matured retirement and the age certification, before the Hon'ble High Court of Karnataka, viz.,

- (i) Writ Petition No. 5615/2001 between Smt. K.Dundamma Vs MML, and the same Management of II Party challenged the same in Writ Appeal No. 3460/2001 C/W W.No. 3459/2001. The said Appeal has been rejected on 12.06.2002 confirming the single Judge order dated 29.03.2001. In view of the said decision the Management, reinstated the above mentioned pre-matured retired employee with payment of back wages, and with continuity of service thereon.
- (ii) Writ Petition No. 26101/2001, C/W W.P. Nos.23798/2001, 23797/2001 & 23794/2001 filed by Sri V.C. Range Gowda and 8 others Vs MML, and the same have been allowed on 01.06.2006.

On account of the illegal payment and other lapses, in the Management of II Party, it has to face administrative problems. The II Party adopted its own tactics, ways and means for terminating the Mining Workers in short cut methods and also, in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to the so-called Medical Examination during the year 1998 in illegal and irregular manner, without disclosing the true fact, to the I Party and also without notifying the so-called Medical Examination, i.e., not by a Doctor of a Rank of Assistant Civil Surgeon as defined in Rule 29-C of the Mines Rules 1995. Hence, the so-called Medical Examination conducted by the II Party is illegal and irregular, and the same is not having any legal sanctity and not sustainable in law as it is violative of Rule 29-C. The I Party has repeatedly requested the officials of the II Party to provide the work to I Party till reaching the age of superannuation i.e., 58 years. But all the efforts made by I Party to persuade the II Party to take the I Party, on duty, proved in vain because of hostile and vindictive attitude on the part of the II Party. The II Party has no right to refuse the employment to the I Party or to remove the I Party name from the muster rolls in unilateral manner, without following the due process of Law. The II Party used the above illegal, imaginary, hypothetical and unscientific Medical report as its tool for unilaterally deciding the age of I Party and other workers. The II Party unilaterally refused employment to the I Party before the age of superannuation even though the I Party is hale and healthy and entitled to work up to the

reaching of the age of superannuation i.e., 58 years. The II Party has not followed the Mandatory provision of Section 25 F, G, H & N of the Industrial Dispute Act, 1947 and Rules 78 and 79 thereon, and the action of the Management is, therefore, void-ab-initio as laid by the Hon'ble Supreme Court of India in the case Sundaramani Vs State Bank of India, Santhosh Gupta Vs State Bank of Patiala, Rober D'Souza Vs Southern Railway, K.S.R.T.C. Bangalore Vs Boraiaha and others and also the same is violative of the Provisions of Industrial Dispute Act, 1947. The II Party has un-necessarily created hardship to the I Party by not providing employment. The II Party Management is not justified in retrenching the services of the I Party in the summary manner without following the principals of Natural justice and fair play. Further, apart from the violation of various provisions of the I.D. Act as stated above, the II Party violated its own Certified Standing Orders. The II Party acted contrary to its own Certified Standing Orders/Service Rules for effecting the prematured, superannuation by way of illegal termination. The I Party submits that, the II Party failed to issue 3 months prior notice or tendered payment of 3 months salary to the I Party before termination of service of the I Party under Rule 24. The I Party belongs to socially and economically weaker section and also, the I Party is the Rural based worker and used to work in Mines, which is in a remote place of the village and the I Party is also an illiterate worker belonging to Economically weaker section & not a matching party to fight against the II Party for the injustice done by the II Party. The I Party is facing financial hardship and mental agony due to stoppage of his/her monthly earnings in the II Party organization and also, due to illegal termination. Also, the I Party is not able to maintain himself and the family with day to day, food and basic needs. The I Party has faced the financial hardship to reach the Labour Department like Assistant Labour Commissioner and Conciliation Officer (C), Hubli from I Party's place, for raising the dispute and also, to set right the I Party's grievances. The Officials of the II Party/Management have taken undue advantage of I Party's poverty, illiteracy, economic weakness and social weakness. Ultimately with great hardship, mental agony and with the help of well wishers, the I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli. The I Party is entitled for back wages, continuity of service and other consequential benefits from the date of refusal of employment. The II Party has violated the Provisions of I.D. Act as well as its own Certified Standing Orders/Service Rules as stated above. Under the I.D. Act there is no limitation prescribed for raising the dispute and the Article 137 of Schedule to the limitation Act is not applicable to proceedings under I.D. Act. This point is repeatedly decided by the Hon'ble Supreme Court of India and Hon'ble High Courts of various states namely,

- (i) LLJ-II-2001-pg788-792 [SC], Sapan kumar Pandit Vs U.P. State Electricity Board and others.
- (ii) LLJ-I-1999-pg 1260-1265 [SC], Ajaib Singh Vs Sirhind Co-operative Marketing-cum-processing Service Society.
- (iii) LLJ-II-1999-pg-482-483[SC], Mahavir Singh Vs U.P. State Electricity Board and others.
- (iv) LLJ-I-2003-pg 412-414 [MP], Ramadhar Tiwari Vs Union of India and others.
- (v) LLJ-I-1994-pg 468-471 [All], U.P. State Spinning Mills Co. Vs State of U.P & Others
- (vi) LLJ-II-2003-pg 1143-1145[Ori], Management of Aska Co-operative Central Bank Ltd. Vs State of Orissa
- (vii) LLJ-I-2002-pg-204-206 [Mad], E.E. Construction Division 2, Mannarpuram, Trichy and Another Vs M.Gajapathy and Another
- (viii) LLJ-I-2002-pg-1079-1081[Del], Mangal Singh Vs Presiding Officer, Industrial Tribunal No.1, Delhi and Another
- (ix) LLJ-I-2002-pg-1129-1132[Bom], Haribhau S/o. Gaman Waghchaure Vs State of Maharastra and Another.

Therefore, the I Party prays this Court to pass an award by holding that the action of the II Party Management is not justified in terminating the services of I Party, namely, prematured superannuation of the services of the I Party and also to direct the II Party to reinstate the I Party, with continuity of service, with payment of Full back wages and other consequential benefits from the date of termination till providing employment/reaching the age of superannuation as per the date of birth details registered in the Statutory records like B-register and EPF records and Service records maintained by the II Party and EPF Authorities and to pay the interest at the rate of 18% from the said due date and also up to the date of payment and further award of cost of the present proceedings, in the interest of justice and also, equity.

3. Brief Common submissions made on behalf of II Party in the counter statement are as follows:-

The II Party states that, the dispute raised by the I Party is time barred and belated, and filed after the lapse of time. Further, the I Party has waited for the result in the case filed by the co-workers, who approached Hon'ble High Court of Karnataka. The success of co-worker of I Party in W.P. No. 5615/2001 and 26101/2001 before Hon'ble High Court of Karnataka inspired the I Party to file this dispute after the lapse of time. Hence, the conduct of the I Party

does not deserve any relief at the hands of this Tribunal. Further, the II Party states that, the dispute raised by the I Party is liable to be dismissed on the ground of delay and laches, since the claim made by the I Party is stale and time barred. The II Party has conducted the Medical Examination and the said expert team have examined the I Party and found that, the I Party is not capable to work in a mine, in view of the fact that, the I Party has already reached the age of more than 58 years as on the date of Medical Examination. Further, as per the decision of Management, I Party has been terminated and also given opportunity to prefer an appeal before Appellate Medical Board within 30 days, if the I Party is aggrieved by the said Medical Report. The I Party, who has amicably received the terminal benefits from the II Party, has no right to raise present dispute, after the lapse of time, at the instigation, for the wrongful gain. It is relevant to submit that, the dispute referred by Government of India is itself not maintainable in law. Hence, there is no Industrial Dispute existed or is apprehended. The Medical Examination has been conducted in Scientific Manner on thorough investigation. The I Party is not entitled for any benefits as per law. The I Party is happily working elsewhere since from the date of termination. Further, the statement of the I Party that, the II Party officials failed to consider the reasonable request of the I Party is totally incorrect and false. In fact, the I Party is employed elsewhere and earning salary. The I Party has filed this dispute only for wrongful gain, at the instigation of well-wishers, as admitted by the I Party in the claim statement. The II Party has not acted illegally or arbitrarily. Therefore, the II Party prays to dismiss the dispute filed by the I Party with exemplary costs, in the interest of justice and equity.

4. Already this Court has passed common award dated 27.08.2014. Thereafter, in Writ Petition the Hon'ble Karnataka High Court, has passed the following Order:-

“The matter is remanded to the Central Government Industrial Tribunal Cum- Labour Court for fresh adjudication of the dispute. The Tribunal shall decide the dispute after giving notice to all the parties and pass an award in accordance with law. All the contentions of both the parties are left open.” Further, notices have been sent for both sides and additional evidence recorded and arguments heard and after the careful perusal and appreciation of material records in the proper perspective the present Common Award is passed.

5. The crucial points/issues that arise for consideration in the present matter are as follows:-

- (i) Whether the present claim has to be rejected on the ground of delay and laches as submitted by the II Party?
- (ii) Whether the I Party has to prefer an appeal as against the medical certificate issued by the medical officer as submitted by the II Party in the counter statement?
- (iii) Whether after the receipt of the terminal benefits, the I Party cannot raise any dispute in the present case?
- (iv) Whether the I Party is entitled to get the relief as claimed in the claim statement, after the careful appreciation of the evidences adduced and documents produced by both the parties, in proper perspective?

6. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 1:-

The I Party has clearly stated in the claim statement itself, and also in the deposition that, I Party belongs to socially and economically weaker section, and the I Party is the rural based worker, and used to work in mines which is in a remote place of a village and I Party is also an illiterate worker, belonging to economically weaker section, and not a fit person, to fight against the II Party and the I Party has repeatedly requested the officials of II Party mines for permitting the I Party to work and also, due to I Party's acute poverty, I Party has faced huge financial hardship to reach the Labour Department like Assistant Labour Commissioner and Conciliation Officer (C), Hubli from I Party's place, for raising the dispute and also, to set right I Party's grievances and in such circumstances, only the delay has happened for raising the dispute and the delay caused is not intentional and deliberate one, but only due to the above mentioned various reasons. The II Party has not specifically denied the above mentioned statements made by the I Party in the claim statement. Further, the I Party has also stated that, the officials of the II Party/Management have taken undue advantage of I Party's poverty, illiteracy, economic and social weakness by way of refusing employment, and also, after knowing fully, that the I Party is most incapable in approaching the Labour Authority for redressal of the I Party's grievances. The said details is also not specifically disputed by the II Party. Further, I Party has clearly stated in the claim statement that ultimately with great hardship, mental agony and with the help of well wishers, the I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the present central reference has been made to this Court by the Government of India, as per the above mentioned details. The said submissions made on behalf of I Party are also not specifically disputed on behalf of the II Party. On the other hand, the Assistant Manager of II Party, namely MW-1, has categorically admitted in his evidence that, I Party is an illiterate person. Further, the I Party has filed copies of Order passed in W.P. No. 5615/2001 dated 29.03.2001, W.A. No. 3460/01 c/w W.A. No. 3459/01 dated 12.06.2002 and W.P. No. 26101/01 c/w W.P. Nos. 23798/01, 23797/01 & 23794/01 dated 01.06.2006, as exhibits marked herein below and also MW-1 has admitted in his evidence that the success of the said co-workers in the said Writ Petition and Writ Appeal has inspired the I Party to file the present reference. In the above mentioned facts and circumstances, it is seen that, the I Party is justified in claiming the legal

and statutory rights and benefits, due to the unlawful and illegal ways and means followed by the II Party to terminate the service of I Party, without following the principles of natural justice.

7. Further, the I Party has pointed out, in the claim statement, itself that, there is no limitation prescribed for raising the dispute and Article 137 Schedule of the Industrial Dispute Act is not applicable to the present case. Further, the Hon'ble Supreme Court of India, dated 03.12.2010, Mr. Hon'ble Justice. P. Sathasivam and Mr. Hon'ble Justice B.S. Chauhan, in Civil Appeal No. 10231/2010, between Kuldeep Singh Vs G.M. Instrument Design Development and Facilities Centre and Another, it is clearly held as follows:- "The Labour Court dismissed the claim of the appellant on ground of delay (of five and half years) in raising the dispute. The High Court confirmed the Labour Court's award. Hence this present appeal. The impugned award was set aside with costs of Rs. 50,000 to be paid by respondent-management to appellant." The Hon'ble Supreme Court observed that, there is no time limit prescribed for reference under section 10 of the Industrial Dispute Act, 1947. In the present case also, on a careful perusal of above said peculiar facts and vital circumstances and also due to the fact that, the I Party is facing poverty, illiteracy, economic and social weakness and also in the light of the above mentioned various citations, mentioned in the claim statement, it is seen that, the II Party is not justified in raising the objection to the effect that present reference is not maintainable due to the delay and laches. The I Party in the claim statement as well as in the evidence has pointed out that, the I Party is an illiterate and the I Party has repeatedly requested the II Party officials to provide employment in the II Party Organisation. Further, the MW-1, namely the Assistant Manager of the II Party has also admitted that I Party is an illiterate person and it is true to suggest that in the mines there is no shelter from sun and rain and it is true to suggest that there is no health unit and it is true to suggest that, the working conditions as per the mining act have not been provided at the mines. In such circumstances, it is crystal clear that, II Party has not provided the basic and statutory and also necessary facilities, for the proper working conditions and also, for the welfare of the I Party workers.

8. Further, Industrial Dispute Act is a social legislation brought into existence after various Industrial Revolutions, stage by stage and the said act has been enacted to provide minimum and basic facilities for workman and protect his/her employment. Further, II Party cannot take the super technical submission of delay and laches as a protective shield to cover up their lapses and violation of laws. Further, it is the well settled law that, I Party can initiate proceedings for the alleged illegal termination of services of workman en-mass by the II Party. Further, for the effective implementation of the Labour enactment and protecting the interest of workman only the Government have created a Labour Department. Further, it is very pertinent to point out that, the present reference is made by the Government of India, Ministry of Labour with the above mentioned schedule. Hence, this Court is bound to pass appropriate award in accordance with law based upon the facts and circumstances of the present matter. The II Party/Management cannot take super technical and hyper technical measures, so as to avoid payment of the legitimate amounts, payable to the I Party/Workman. Further, it is clearly held in the judgment reported in 1995-II-LLJ 835, between H.S. Vasantsenaiah Vs The Divisional Controller, K.S.R.T.C & Anothers, as follows:- "Delay in approaching the Labour Court- No ground to deny back wages and other consequential benefits."

9. Further, it is held in the judgment reported in 1999-LLJ-II-pg 482-483 [SC], between Mahavir Singh Vs U.P. State Electricity Board and others, as follows:- "Delay in raising dispute – Labour Court finding termination of workman's service illegal-reference could not be rejected." Also in the judgment reported in 2003-LLJ-I-pg 412-414 [MP], between Ramadhar Tiwari Vs Union of India and others, it is clearly held as follows:- "No limitation laid down for raising dispute under statute - dispute raised after about 5 years - not one which could be refused on ground of delay." Again, in the judgment reported in 1994-LLJ-I-pg 468-471 [All], between U.P. State Spinning Mills Co. Vs State of U.P and others, it is specifically held as follows:- "Lapse of 11 years between raising a dispute and making reference does not lose the character of industrial dispute." Further, in the judgment reported in 2002-LLJ-I-pg 1079-1081 [Del], between Mangal Singh Vs Presiding Officer, Industrial Tribunal No.1, Delhi and another, it is clearly held as follows:- "Relief under Industrial Dispute Act, 1947 not to be denied to workman merely on ground of delay." Also, in the judgment reported in 2002-LLJ-I-pg 1129-1132 [Bom], between Haribhau S/o. Gaman Waghchaure Vs State of Maharashtra and another, it is clearly held as follows:- "Limitation Act does not apply to proceedings under Industrial Dispute Act, 1947- If plea of delay be raised, employer to show real prejudice caused by delay and not rely on it as mere hypothetical defense." In the present case also, considering the above mentioned socio-economic conditions, poverty and illiteracy, of the I Party, it is found that, the appropriate relief, in accordance with law has to be granted to the workman and the same cannot be denied, as per the mere hypothetical defence taken by the II Party regarding the delay and in fact, the II Party has not established the real prejudice caused by the said delay.

10. Further, in the judgment in the case of Basti Sugar Mills Co. Ltd. Vs State of U.P., (1979) 2 SCC 88, by V. Kishna Iyer. J. it is pointed out as follows:- "Industrial Jurisprudence does not brook nice nuances and tortuous technicalities to stand in the way of just solutions reached in a rough and ready manner. Grim and grimy life-situations have no time for the finer manners of elegant jurisprudence." Thus, the process of industrial adjudication is an onerous task being guided by the constitutional mandates and aiming at settlement of the industrial dispute on a fair and just basis, tested on the touchstone of social and economic justice. When an industrial dispute is raised, it is a commotion

to be pacified by dispensing justice. In such adjudication, not just the right to equality and other Constitutional guarantees, but the aims and ideals of the Constitution enter into the consideration. It is the duty of the Courts to apply directive principles in interpreting the Constitution and the laws. Also, it is reported in Lloyds Bank Ltd Vs. Bundy, (1974) 3 All ER 757 that Lord Denning first clearly enunciated his theory of "inequality of bargaining power". He began his discussion on this part of the case by stating (at page 763): "There are cases in our books in which the courts will set aside a contract, or a transfer of property, when the parties have not met on equal terms, when the one is so strong in bargaining power and the other so weak that, as a matter of common fairness, it is not right that the strong should be allowed to push the weak to the wall." In the present case also, it is seen that, the II Party has clearly admitted in the counter statement that, the success of the co-workers of I Party in W.P. No. 5615/2001 dated 29.03.2001, W.A. No. 3460/01 c/w W.A. No. 3459/01 dated 12.06.2002 and W.P. No. 26101/01 c/w W.P. Nos. 23798/01, 23797/01 & 23794/01 dated 01.06.2006, has inspired the I Party to file the present reference and in fact, the I Party has specifically pointed out in the claim statement and evidence that, the I Party is an illiterate person and the I Party is facing poverty, economic and social weakness and the I Party has repeatedly requested the II Party officials to provide employment to the I Party and Assistant Manager of II Party MW-1 has also admitted in his evidence that, I Party is an illiterate person and also the II Party has not established the real prejudice caused to the II Party, by the said delay.

11. Further, the Hon'ble High Court of Karnataka, in W.P. No. 9974/2006 (L-TER) dated 07.01.2015, (Before Mr. Hon'ble Chief Justice D.H. Waghela and Mr. Hon'ble Justice Budihal. R. B), in the case of The Management of National Aerospace Laboratories Vs Engineering & General Workers Union and the Managing Directors, it is particularly held as follows:- "The jurisdiction of an Industrial Tribunal, therefore, is expansive and creative and not restricted to only enforcing or interpreting the contract of service or the extant legal provisions and it is not-fettered by the limitations of contracts and can even involve extension of existing agreement of the making of a new one, or in general, creation of new obligations or modification of old ones." In the present case also, for the above mentioned facts and circumstances it is found that, I Party is entitled to get appropriate relief, in accordance with law, and the II Party is not justified in raising the objection on the ground of delay and latches, as per the said jurisdiction of the present Court. Thus, the point is answered in favour of the I Party.

12. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 2:-

The MW-1 the Assistant Manger of II Party, who has given evidence on behalf of II Party has admitted that, it is true to suggest that, there is no health unit and the working conditions as per the mining act have not been provided at the Mines. The said admission is also clinchingly established the various above mentioned allegation made as against the II Party. Further, MW-1 has admitted that, it is true to suggest that, as per the provisions of the mining act there should be a qualified doctor to attend the I Party workers at the mining site. If it is so, then there is no need for the II Party to get the doctor from Hatti Gold Mines and to subject the I Party to medical examination. On that ground only, I Party has clearly stated in the claim statement that, as per the illegal medical certificate, the social and economic weaker section person of the I Party has been refused to continue the work by the II Party.

13. Further, MW-1 namely, the Assistant Manager of II Party/Management has admitted that the II Party company has suffered loss of 21 crores due to mis-management and it is also true to suggest that, due to the said mis-management, the financial crisis has occurred and it is true to suggest, having suffered the said loss the management thought of reducing the number of workers and it is true to suggest that, the Management ordered for medical examination of all the mining workers. For the said reasons only, I Party has categorically stated in the claim statement that, II Party has suffered huge loss due to mis-management and in the way of reducing the number of workers they have conducted illegal medical examination and terminated several workers including I Party. Further, MW-1 admitted that, to examine the workers doctors, have come from Hatti Gold Mines Ltd. However, he has admitted, that he does not know the names and qualifications of those doctors.

14. Further, in the counter statement the II Party has stated that, the I Party has been given opportunity to prefer an appeal before Appellate Medical Board within 30 days, if the I Party is aggrieved by the Medical Report. However, the MW-1 has categorically admitted that, it is true to suggest that, they have not produced the Medical certificate issued by the Doctor who has examined the I Party health condition and it is also true to suggest that, the Medical From 'O' is in English language. At the same time, the MW-1 has admitted that, I Party workers are illiterate workers. Hence, it is found that the said medical certificate has not been issued in the language known to the workers/I Party and also not understood by the I Party and in fact, the said medical certificate is also not submitted to this Court by the II Party. In such circumstances, it is too much on the part of II Party to content that I Party has got the appeal remedy as per the medical certificate and the workers have not availed the appeal remedy and hence they cannot file the present case before this Court. Further, MW-1 has admitted in his evidence that, the Doctors have not conducted the medical examination in his presence and he does not know in what respect the I Party has been found unfit to continue in service and he has to verify in the office whether copy of notice issued to I Party after medical examination or

acknowledgement regarding service of notice on the I Party is available or not. So, the MW-1 has not produced the relevant records to establish that, after medical examination, proper record has been issued to I Party to appeal before 30 days. On the other hand, MW-1 has categorically admitted that, II Party has not produced the Medical certificate issued by the Doctor who has examined the I Party. Above all, MW-1 has admitted that, it is true to suggest that, I Party has not been issued with charge sheet and no enquiry has been conducted before the termination of his service. The said categorical admission of MW-1 shows that, II Party has not terminated the I Party as per the principles of natural justice.

15. Further, MW-1 has admitted that, it is true to suggest that as per the clause 18 and 24 any termination has to be followed by enquiry along with 3 months notice pay. However, MW-1 has admitted that, I Party has not been issued with charge sheet and also, enquiry has been conducted. Hence, it is crystal clear that, II Party has not terminated the I Party in accordance with law. Further, MW-1 has admitted that, termination order has not been attached with copy of Medical Certificate pertaining to I Party. Furthermore, MW-1 has admitted that, he does not know in what respect the Medical Officer opined that, the I Party is being medically unfit. Further, MW-1 has admitted that, it is true that, II Party has not taken any permission from Labour Ministry or Labour Secretary under the provisions of I.D. Act for terminating services of several employees on the basis of medical grounds. Further, MW-1 has specifically admitted in his evidence that, it is true to suggest that I Party is the illiterate person and it is true to suggest that company has not furnished to the I Party the Kannada Version/translation of Medical Certificate which is in English and the company has enhanced the age of employees to 60 years w.e.f 17.07.2008. In the light of the above mentioned facts and circumstances it is found that, the II Party is not justified in submitting that, the I Party has to prefer only the appeal as against the medical certificate issued by the medical officer. Thus, the point/issue is answered as against the II Party.

16. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 3:-

The I Party has stated in the claim statement that, he is entitled to work till attending the age of superannuation and the I Party's actual date of birth is registered in EPF, B-register and Service records, etc and suddenly, the II Party has refused to provide employment to the I Party, as per the so-called illegal medical examination and the co-workers have challenged there pre-matured retirements and age certification before the Hon'ble High Court of Karnataka, viz.,

- (i) Writ Petition No. 5615/2001 between Smt. K.Dundamma Vs MML, and the same Management of II Party challenged the same in Writ Appeal No. 3460/2001 C/W W.No. 3459/2001. The said Appeal has been rejected on 12.06.2002 confirming the single Judge order dated 29.03.2001. In view of the said decision the Management reinstated the above mentioned pre-matured retired employee with payment of back wages, with continuity of service thereon.
- (ii) Writ Petition No. 26101/2001, C/W W.P. Nos. 23798/2001, 23797/2001 & 23794/2001 filed by Sri V.C. Range Gowda and 8 others Vs MML, and the same has been allowed on 01.06.2006. The MW-1, the Assistant Manger of II Party has also admitted the said details, in his evidence. Further, the I Party has specifically pointed out that, on account of administrative problems faced by the II Party, the II Party adopted its own tactics, ways and means for terminating the Mining Workers in short cut methods and also, in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to so-called Medical Examination during the year 1998 in illegal and irregular manner, without disclosing the true fact, to the I Party and also without notifying the so-called Medical Report i.e., not by a Doctor of a Rank of Assistant Civil Surgeon as defined in Rule 29-C of the Mines Rules 1995 and hence, the so-called Medical Examination conducted by the II Party is illegal and irregular, and the same is not having any legal sanctity and not sustainable in law as it is violative of Rule 29-C. The MW-1, Assistant Manger of II Party has candidly admitted in his evidence that, due to mis-management, the II Party has suffered administrative problems, and hence, the II Party has decided to terminate the services of the I Party workers.

17. Further, it is specifically pointed out by the I Party that, II Party has no right to refuse the employment to the I Party without following the due process of Law and the II Party used the illegal, imaginary, hypothetical and unscientific Medical report as its tool for unilaterally deciding the age of I Party and other workers even though the correct age is mentioned in the EPF, B-register and Service records, and I Party is hale and healthy and entitled to work up to the age of superannuation. In the evidence also, I Party has stated the said details mentioned in the claim statement. Further, in the cross examination, I Party has clearly pointed out that, it is not true to suggest that, as per the request made by the union the II Party subjected the I Party to medical check up and found the I Party unfit to continue in service. In the additional evidence also, the I Party has pointed out that, it is not true to suggest that as on termination, all amounts due to I Party have been received and the I Party has filed the present case, without any justification. Further, the II Party has also not produced any relevant records, to establish that, the II Party has paid all

the amounts due to I Party as on the date of termination. Further, it is observed in the judgment reported in 1984-I-LLJ 388(SC) as follows:- “Acceptance of retirement benefits – Acceptance of retirement benefits by the workmen concerned – Whether precluded from raising Industrial Disputes Challenging Orders of retirement. On the materials placed by the management, held, neither a case of acquiescence nor a case of waiver on the part of workmen was made out – Held, the workmen were entitled to wages for the period between the dates of retirement and the dates of their reaching the age of 58 years.” Also, in the judgment reported in 1997-II-LLJ 228(SC) it is held as follows:- “There is no statutory estoppels in favour of the Officer.” Further, it is the settled law that, there is no estoppel as against the statutory rights/benefits, which the I Party/workman is entitled to get under the provisions of the Industrial Disputes Act, 1947 and the II Party has also not established that, the action has been taken by the II Party as against the I Party, as per the principles of natural justice and also, as per the procedure and practice to be followed in accordance with law. In the light of the above mentioned reasons, facts and circumstances it is found that, the II Party is not justified in submitting that, after the receipt of the terminal benefits the I Party cannot raise any dispute in the present case and thus, the point/issue is answered as against the II Party.

18. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 4:-

The I Party has categorically stated that, due to mis-management the II Party has suffered a loss and hence, the II Party has found its own tactics, ways and means for terminating the mines workers in short cut methods and also in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to so-called Medical Examination during the year 1998 in illegal and irregular manner. Further, MW-1 has admitted in his evidence that the II Party has entrusted the work to private party in spite of availability of technical persons and machinery in the year 1995-1996 and hence, the II Party company has suffered a loss of about Rs. 21 crores and it is also true to suggest that, due to said mis-management the financial crisis occurred and also it is true to suggest that, having suffered the said loss the management thought of reducing the number of workers. Hence, it is clear that, the MW-1 of II Party has also admitted the said submissions made by the I Party in the claim statement. Further, MW-1 has admitted that, he cannot right now give the date, month and year of notice served to I Party and it is true to suggest that, I Party has not been issued with charged sheet and no enquiry has been conducted before the termination of the I Party. Further, MW-1, admitted that, it is true to suggest that as per the clause 18 and 24 any termination has to be followed by enquiry along with 3 months notice pay. However, MW-1 has clearly admitted that 3 months notice pay has not been paid to the I Party by the II Party.

19. Further, MW-1 has admitted in his evidence that, it is true to suggest that, there is Statutory Report, B Register and Provident Fund Register. Further, I Party has categorically stated that, the date of birth has been entered in the Statutory Report, B Register and Provident Fund Register and the II Party without any valid reasons pre-maturedly terminated the service of the I Party. Further, the date of birth of I Party mentioned in the claim statement is the same as mentioned in the employees register, which is marked as Ex M-1, except in the case of CR No. 42/2007. Further, in the case of CR No. 42/2007, it is seen that, as per Ex M-1 and Ex M-2, the date of birth of I Party is 13.06.1951. Also, the Circular relating to enhancing the superannuation age from 58 years to 60 years to the workers of II Party, is applicable only to persons who are in employment as on 17.07.2008. Further, MW-1 has clearly admitted that, it is true to suggest that, as per Clause 18.3 of CDPR rules, the changes in the date of birth, as entered in the company record, can only effected on a judgment of a competent Court and except on a judgment of a Court, the date of birth once recorded, will not be changed at the request of the Officer/Employee under any circumstances. For that reason only, I Party has clearly stated that, the II Party has terminated the service of I Party pre-maturedly without any valid reasons. Further, the act of the II Party, certainly, is not proper and legal and as much as, no valid reasons have been furnished by the II Party for not producing the medical certificate issued to the I Party by the II Party and no valid reason has been furnished by the II Party as to what prevented the II Party in not following the principles of natural justice and also for not producing the material records, though they are very important records, to prove the aforesaid details mentioned in the counter statement filed on behalf of II Party. Further, on the careful perusal of material records mentioned in the Exhibits list, it is seen that, II Party has refused to provide work to the I Party without following the due process of law. Further, it is found that, there is discrimination and also violation of fundamental right caused to the I Party and it is not proper and also, not legal to give forceful retirement to I Party, by the II Party, without following the due process of law.

20. Further, it is seen that, the II Party has not terminated the service of the I Party as per the Principles of Preponderance of Probability. Further, no injustice can be caused by the II Party to the I Party and I Party cannot be victimized due to the actions of the II Party without any valid reasons. Further, it is relevant to mention that, the I Party/workman has been punished by II Party without adopting the procedure known under law. Further, the underlying aim and object of adjudication of an Industrial Dispute is, in effect, dispensation of social and economic justice and translating fundamental rights as well as directive principles into some tangible relief. The ultimate object is to see that industrial disputes are settled by industrial adjudication on principles of fair play and justice. Further, the awarding of reinstatement does not amount to automatic conferment of back wages as held in 2009 (4) LLJ 667 (SC)

Malla C.N. Vs State of Jammu and Kashmir & others. Further, it is held by the Hon'ble Supreme Court, in the case of APSRTC Vs B.S. David Pal, reported in 2006 (2) SCC 282, that the entitlement of back wages is not automatic on reinstatement. Awarding of back wages, depend upon other factors and circumstances. The I Party has pointed out in the claim statement that the I Party has been thrown out of employment and is facing hardship. In the affidavit also, the I Party has stated that with no financial income the I Party is facing great hardship. However, the claim of the workman that, the I Party is entitled for the full back wages, cannot be considered, having regard to fact that the I Party has not performed any work for II Party from 1998 to the date of superannuation, for the several years, and also, in order to balance the interest of both the parties, by adopting the balancing test or balancing process in the proper manner, this Court is of the considered opinion that in the facts and situation of the present case, 50% back wages and other consequential benefits only can be granted to the I Party. In the claim statement, the I Party has claimed interest, however the I Party has not enlightened the fact that the I Party is entitled to get interest also as prayed for in the claim statement by adducing relevant evidence and appropriate records. Hence, it is found that, the I Party is not entitled to get interest amount for the above mentioned factual reasons and also legal grounds.

21. Further, in the judgment reported in 2010-I-LLJ-861(SC), in C.A. No. 2874/2009, dated 28.04.2009, (Before Mr. Justice Tarun Chatterjee and Mr. Justice H.L. Dattu), in the case of Malwa Vanaspati & Chemical Co. Ltd. Vs Rajendra, it is held as follows:- “Back Wages – Entitlement for full back wages – Depends upon facts and circumstances of each case – Employee reinstated in service – Question of termination or reinstatement not in dispute – Employee only entitled to 50% back wages.” Also, in the judgment reported in AIR 2009 Supreme Court 240, in C.A. No. 5425/2008, dated 02.09.2008, (Before Mr. Justice Tarun Chatterjee and Mr. Justice Aftab Alam), in the case of M.P. Electricity Board & Ors Vs Maiku Prasad, it is held as follows:- “Industrial Dispute Act (14/1947), Sch. 2, Item 6 – Back wages – Curtailment – Respondents’ service terminated for unauthorised absence – Termination set aside by Labour Court – Direction for reinstatement and payment of full back wages passed – Considering long period between termination and reinstatement for which respondent has not worked – Back wages reduced to 50%.” Further, in the judgment reported in 2010-I-LLJ-861(SC), in C.A. No. 2874/2009, dated 28.04.2009, (Before Mr. Justice Tarun Chatterjee and Mr. Justice H.L. Dattu), in the case of Malwa Vanaspati & Chemical Co. Ltd. Vs Rajendra, it is held as follows:- “Back Wages – Not to be granted mechanically, upon termination of service being held illegal- Service of workman terminated in 1987 – Labour Court gave its award in 2002 holding termination illegal – In circumstances of case, 50% back wages held proper and payment thereof accordingly directed.” In the present case also, it is found that, the I Party is entitled to get 50% of the amount, out of the total amount of the monetary benefits with continuity of service, and other consequential benefits that I Party would have received in the absence of the impugned punishment of refusal to provide employment, by the II Party.

22. Further, in the judgment reported in 2009-I-LLJ 1 [SC], between Senior Regional Manager, TASMAL Ltd., and another Vs The M. Raviselvam, it is held as follows:- “Back wages-payment of back wages questioned- On reinstatement, full back wages is not to be paid automatically. It depends upon facts of each case. In the present case order for payment of back wages modified to the extent of 50% to be paid by the Management.” And in the judgment reported in 1999-LLJ-I-pg 1260-1265 [SC], between Ajaib Singh Vs Sirhind Co-operative Marketing-Cum-Processing Service Society, it is clearly held as follows:- “Delay in seeking relief by workman against Termination of Service- Article 137 of Schedule to Limitation Act not applicable to proceedings under I.D. Act – Workman entitled to 60% of back wages.” Further, in the judgment reported in 1990 [61] FLR 768, between Delhi Transport Corporation Vs D.T.C. Mazdoor Congress and others, it is held as follows:- “A confirmed and permanent employee-Terminated without one month’s notice or pay in lieu of and without holding enquiry and affording any opportunity-Termination was illegal-Principles of natural justice violated.” In the present case also, the II Party has terminated the I Party without following the Principles of natural justice and without holding enquiry and also without offering opportunity to the I Party to put forth his/her defence. Further, in the judgment reported in 2010-I-LLJ 682 [Bom], between Santhosh Kumar, S/o Babulal Gupta Vs Sub-Area Manager, Western Coal Fields Ltd., Maharastra and another, it is held as follows:- “Dismissal of workman from service – no enquiry held – termination order not served on workman – punishment held disproportionate – deprivation of 50% back wages with warning issued to workman held would be proper.” Further, the II Party has stated in the counter statement that, the I Party, on medical examination, has found to be unfit to work. However, in the same counter statement II Party has stated that, I Party is happily working elsewhere since the date of termination and the I Party is working elsewhere also earning salary. In such circumstances, it is seen that, the submissions made by the II Party in the counter statement are self contradictory. On that ground also II Party is not justified in terminating the services of I Party without following the principles of natural justice, fairness and reasonableness. Further, on the totality of the above mentioned facts and circumstances, and also, after taking into consideration the evidences and exhibits mentioned herein below, in the proper perspective, the following award is passed, in the best interest of justice, equity and fair play.

(i) In C R No. 31/2007 Lakshamma Vs MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/ Lakshamma with effect from 09.06.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 09.06.1998 till the I Party attains the age of retirement i.e, 11.05.1999 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(ii) In C R No. 34/2007 Venkatesh Vs MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/Venkatesh with effect from 28.06.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 28.06.1998 till the I Party attains the age of retirement i.e, 12.11.2006 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(iii) In C R No. 35/2007 B Chikke Gowda Vs MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/B Chikke Gowda with effect from 25.05.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 25.05.1998 till the I Party attains the age of retirement i.e, 14.01.2004 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(iv) In C R No. 42/2007 K N Nanjunde Gowda Vs MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/K N Nanjunde Gowda with effect from 11.09.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 11.09.1998 till the I Party attains the age of retirement i.e, 30.04.2009 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(v) In C R No. 99/2007 Chandrappa Vs MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/ Chandrappa with effect from 16.04.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 16.04.1998 till the I Party attains the age of retirement i.e, 06.10.2005 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 30th June, 2017)

V. S. RAVI, Presiding Officer

(i) **In C R No. 31/2007 Lakshamma Vs MML****List of Witness on the side of I Party:**

WW 1	Smt. Lakshamma, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Membership Application Form issued by II Party
Ex W-2	09.06.1998	Termination order issued to I Party
Ex W-3	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-4	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-5	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-6	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(ii) **In C R No. 34/2007 Venkatesh Vs MML****List of Witness on the side of I Party:**

WW 1	Sh. Venkatesh, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-2	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-3	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-4	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(iii) In C R No. 35/2007 B Chikke Gowda Vs MML**List of Witness on the side of I Party:**

WW 1	Sh. B Chikke Gowda, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Membership Application Form issued by II Party
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 346/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-5	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(iv) In C R No. 42/2007 K N Nanjunde Gowda Vs MML**List of Witness on the side of I Party:**

WW 1	Sh. K N Nanjunde Gowda, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	30.04.1977	Appointment letter issued by II Party
Ex W-2	-	Pension Payment Order
Ex W-3	12.08.1998	Termination order issued to I Party
Ex W-4	-	Medical Examination Report issued by II Party
Ex W-5	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-6	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-7	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-8	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees
Ex M-2	-	Employees Service Record

(v) In C R No. 99/2007 Chandrappa Vs MML**List of Witness on the side of I Party:**

WW 1	Sh. Chandrappa, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	22.05.1998	Termination order issued to I Party
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-5	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

नई दिल्ली, 25 जुलाई, 2017

का.आ. 1793.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसूर मिनरल्स लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बंगलूर के पंचाट (संदर्भ संख्या 25/2007, 103/2007, 104/2007, 25/2008, 28/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.07.2017 को प्राप्त हुआ था।

[सं. एल-29012/27/2006-आईआर (एम),

सं. एल-29012/30/2007-आईआर (एम),

सं. एल-29012/32/2007-आईआर (एम),

सं. एल-29012/2/2008-आईआर (एम),

सं. एल-29012/5/2008-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 25th July, 2017

S.O. 1793.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2007, 103/2007, 104/2007, 25/2008, 28/2008,) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Mysore Minerals Limited and their workman, which was received by the Central Government on 24.07.2017.

[No. L-29012/27/2006-IR (M),

No. L-29012/30/2007-IR (M),

No. L-29012/32/2007-IR (M),

No. L-29012/2/2008-IR (M),

No. L-29012/5/2008-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 30th JUNE 2017

PRESENT : Shri V S RAVI, Presiding Officer

COMMON AWARD

(i) C R No. 25/2007

I Party

Smt. Mariyamma,
W/o Late Chikklegowda,
MML Worker, Hullenahalli, Kembalu Post,
Bagur Hobli, Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No.L-29012/27/2006-IR(M) dated 23.02.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Smt. Mariyamma w.e.f. 29.06.1998? If not, to what relief the workman is entitled to?”

(ii) C R No. 103/2007**I Party**

Sh. H. Thimmegowda,
S/o Hanumegowda, Thotademane,
Marshettyhalli Koppalu Village, Hulleker Post,
Gandasi Hobli, Arasikere Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No. L-29012/30/2007-IR(M) dated 21.08.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Sh. H. Thimmegowda w.e.f. 28.06.1998? If not, to what relief the workman is entitled to?”

(iii) C R No. 104/2007**I Party**

Sh. K.L. Shivegowda,
S/o Sh. Kakkashetty Gowda, Kothalagla
Village & Post, Shravanabelagola Hobli,
Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No. L- 29012/32/2007-IR(M) dated 21.08.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Sh. K.L. Shivegowda w.e.f. 28.06.1998? If not, to what relief the workman is entitled to?”

(iv) C R No. 25/2008

Smt. Singamma,
W/o Oblaiah, Chavkenahalli Village,
Nagar Navile Post,
Bagur Hobli,
Chamarajanagara Taluk,
Hassan District.

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No.L-29012/2/2008-IR(M) dated 02.04.2008 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the termination of Smt. Singamma by the management of Mysore Minerals Limited w.e.f 28.06.1998 is justified? If not, to what relief the workman is entitled to?”

(v) C R No. 28/2008**I Party**

Sh. A. Nanjegowda,
S/o Late Sh. Chunhegowda, Averehalli
Village, Jamboor Post, Nuggehalli Hobli,
Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore- 560001

The Central Government vide Order No.L-29012/5/2008-IR(M) dated 02.04.2008 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the termination of Sh. A. Nanjegowda by the management of Mysore Minerals Limited w.e.f 16.04.1998 is justified? If not, to what relief the workman is entitled to?”

Appearance :

I party : M/s K.T. Govinde Gowda &
Sh. C.G. Dileep Gowda, Advocates

II party : M/s. L. Venkatarama Reddy, Advocate

1. Brief details mentioned in the claim statement by I Party are as follows:-

- (i) In CR No. 25/2007, the I Party submits that on 24.11.1977, she has joined the service of the II Party management at its Mining Unit viz., Byrapura Chromite Mines, Kembal Post, Channarayapatna Taluk, Hassan District, as a Mining worker under token No. 210. At the time of joining the I Party has furnished her age as 30 years i.e., her date of birth being 24.11.1947. Further, the II Party, Byrapura Chromite Mines Officials, orally refused to allow the I Party to do her work w.e.f 29.06.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), and the Central Government have referred the Reference in CR No. 25/2007.
- (ii) In CR No. 103/2007, the I Party submits that on 21.11.1980, he has joined the service of the II Party management at its Mining Unit viz., Byrapura Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker under token No. 1347. At the time of joining the I Party has furnished his age as 36 years i.e., his date of birth being 21.11.1944. Further, the II Party, Byrapura Chromite Mines Officials, orally refused to allow the I Party to do his work w.e.f 28.06.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 103/2007.
- (iii) In CR No. 104/2007, the I Party submits that on 01.03.1983, he has joined the service of the II Party management at its Mining Unit viz., GCP [Granite Processing] Unit and later transferred to Byrapura Division Office, Channarayapatna Taluk, Hassan District, as a Watchman. At the time of joining the I Party has furnished his age as 27 years i.e., his date of birth being 26.03.1956. Further, the II Party, Byrapura Division Office Officials, orally refused to allow the I Party to do his work w.e.f 28.06.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR 104/2007.
- (iv) In CR No. 25/2008, the I Party submits that on 03.11.1980, she has joined the service of the II Party management at its Mining Unit viz., Byrapura Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker under token No. 294. At the time of joining the I Party has furnished her age as 30 years i.e., her date of birth being 03.11.1950. Further, the II Party, Byrapura Chromite Mines Officials, orally refused to allow the I Party to do her work w.e.f 28.06.1998. The I Party has raised the I.D. before the Assistant Commissioner and Conciliation Officer (C), Hubli and the the Central Government have referred the Reference in CR No. 25/2008.
- (v) In CR No. 28/2008, the I Party submits that on 03.04.1982, he has joined the service of the II Party management at its Mining Unit viz., Jamboor Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker. At the time of joining the I Party has furnished his age as 28 years i.e., his date of birth being 01.07.1954. Further, the II Party, Jamboor Chromite Mines Officials, orally refused to allow the I Party to do his work w.e.f 16.04.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 28/2008.

2. Brief Common details mentioned on behalf of I Party are as follows:-

The date of birth of the I Party, in fact, has been entered in all the statutory records like EPF, B-register and Service records, etc. The I Party is entitled to continue in the service with the II Party up to the reaching of the age of superannuation i.e., 58 years in the II Party Organization. The II Party by way of an eye wash conducted the so called illegal Medical Examination for the purpose of removing the I Party from the service before reaching the age of superannuation. Further, the II Party has terminated the I Party on the plea that the I Party has reached the superannuation age of 58 years as per the so called illegal Medical Examination. After illegal termination, the I Party

has faced unemployment problem and financial hardship, not only by I Party but also the family members of I Party. The entire family has depended only upon the earnings of the I Party in the II Party Organization. The II Party/Management similarly, has, prematurely, retired the co-workers of the I Party on the ground of Medical unfitness and also as per the age certificate, issued by the Medical Officer. The said some of the co-workers have challenged their pre-matured retirement and the age certification, before the Hon'ble High Court of Karnataka, viz.,

- (i) Writ Petition No. 5615/2001 between Smt. K.Dundamma Vs MML, and the same Management of II Party challenged the same in Writ Appeal No. 3460/2001 C/W W.No. 3459/2001. The said Appeal has been rejected on 12.06.2002 confirming the single Judge order dated 29.03.2001. In view of the said decision the Management, reinstated the above mentioned pre-matured retired employee with payment of back wages, and with continuity of service thereon.
- (ii) Writ Petition No. 26101/2001, C/W W.P. Nos. 23798/2001, 23797/2001 & 23794/2001 filed by Sri V.C. Range Gowda and 8 others Vs MML, and the same have been allowed on 01.06.2006.

On account of the illegal payment and other lapses, in the Management of II Party, it has to face administrative problems. The II Party adopted its own tactics, ways and means for terminating the Mining Workers in short cut methods and also, in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to the so-called Medical Examination during the year 1998 in illegal and irregular manner, without disclosing the true fact, to the I Party and also without notifying the so-called Medical Examination, i.e., not by a Doctor of a Rank of Assistant Civil Surgeon as defined in Rule 29-C of the Mines Rules 1995. Hence, the so-called Medical Examination conducted by the II Party is illegal and irregular, and the same is not having any legal sanctity and not sustainable in law as it is violative of Rule 29-C. The I Party has repeatedly requested the officials of the II Party to provide the work to I Party till reaching the age of superannuation i.e., 58 years. But all the efforts made by I Party to persuade the II Party to take the I Party, on duty, proved in vain because of hostile and vindictive attitude on the part of the II Party. The II Party has no right to refuse the employment to the I Party or to remove the I Party name from the muster rolls in unilateral manner, without following the due process of Law. The II Party used the above illegal, imaginary, hypothetical and unscientific Medical report as its tool for unilaterally deciding the age of I Party and other workers. The II Party unilaterally refused employment to the I Party before the age of superannuation even though the I Party is hale and healthy and entitled to work up to the reaching of the age of superannuation i.e., 58 years. The II Party has not followed the Mandatory provision of Section 25 F, G, H & N of the Industrial Dispute Act, 1947 and Rules 78 and 79 thereon, and the action of the Management is, therefore, void-ab-initio as laid by the Hon'ble Supreme Court of India in the case Sundaramani Vs State Bank of India, Santhosh Gupta Vs State Bank of Patiala, Rober D'Souza Vs Southern Railway, K.S.R.T.C. Bangalore Vs Boraiaha and others and also the same is violative of the Provisions of Industrial Dispute Act, 1947. The II Party has un-necessarily created hardship to the I Party by not providing employment. The II Party Management is not justified in retrenching the services of the I Party in the summary manner without following the principals of Natural justice and fair play. Further, apart from the violation of various provisions of the I.D. Act as stated above, the II Party violated its own Certified Standing Orders. The II Party acted contrary to its own Certified Standing Orders/Service Rules for effecting the prematured, superannuation by way of illegal termination. The I Party submits that, the II Party failed to issue 3 months prior notice or tendered payment of 3 months salary to the I Party before termination of service of the I Party under Rule 24. The I Party belongs to socially and economically weaker section and also, the I Party is the Rural based worker and used to work in Mines, which is in a remote place of the village and the I Party is also an illiterate worker belonging to Economically weaker section & not a matching party to fight against the II Party for the injustice done by the II Party. The I Party is facing financial hardship and mental agony due to stoppage of his/her monthly earnings in the II Party organization and also, due to illegal termination. Also, the I Party is not able to maintain himself and the family with day to day, food and basic needs. The I Party has faced the financial hardship to reach the Labour Department like Assistant Labour Commissioner and Conciliation Officer (C), Hubli from I Party's place, for raising the dispute and also, to set right the I Party's grievances. The Officials of the II Party/Management have taken undue advantage of I Party's poverty, illiteracy, economic weakness and social weakness. Ultimately with great hardship, mental agony and with the help of well wishers, the I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli. The I Party is entitled for back wages, continuity of service and other consequential benefits from the date of refusal of employment. The II Party has violated the Provisions of I.D. Act as well as its own Certified Standing Orders/Service Rules as stated above. Under the I.D. Act there is no limitation prescribed for raising the dispute and the Article 137 of Schedule to the limitation Act is not applicable to proceedings under I.D. Act. This point is repeatedly decided by the Hon'ble Supreme Court of India and Hon'ble High Courts of various states namely,

- (i). LLJ-II-2001-pg788-792 [SC], Sapan kumar Pandit Vs U.P. State Electricity Board and others.
- (ii). LLJ-I-1999-pg 1260-1265 [SC], Ajaib Singh Vs Sirhind Co-operative Marketing-cum-processing Service Society.

- (iii) LLJ-II-1999-pg-482-483[SC], Mahavir Singh Vs U.P. State Electricity Board and others.
- (iv) LLJ-I-2003-pg 412-414 [MP], Ramadhar Tiwari Vs Union of India and others.
- (v) LLJ-I-1994-pg 468-471 [All], U.P. State Spinning Mills Co. Vs State of U.P & Others
- (vi) LLJ-II-2003-pg 1143-1145[Ori], Management of Aska Co-operative Central Bank Ltd. Vs State of Orissa
- (vii) LLJ-I-2002-pg-204-206 [Mad], E.E. Construction Division 2, Mannarpuram, Trichy and Another Vs M.Gajapathy and Another
- (viii) LLJ-I-2002-pg-1079-1081[Del], Mangal Singh Vs Presiding Officer, Industrial Tribunal No.1, Delhi and Another
- (ix) LLJ-I-2002-pg-1129-1132[Bom], Haribhau S/o. Gaman Waghchaure Vs State of Maharastra and Another.

Therefore, the I Party prays this Court to pass an award by holding that the action of the II Party Management is not justified in terminating the services of I Party, namely, prematured superannuation of the services of the I Party and also to direct the II Party to reinstate the I Party, with continuity of service, with payment of Full back wages and other consequential benefits from the date of termination till providing employment/reaching the age of superannuation as per the date of birth details registered in the Statutory records like B-register and EPF records and Service records maintained by the II Party and EPF Authorities and to pay the interest at the rate of 18% from the said due date and also up to the date of payment and further award of cost of the present proceedings, in the interest of justice and also, equity.

3. Brief Common submissions made on behalf of II Party in the counter statement are as follows:-

The II Party states that, the dispute raised by the I Party is time barred and belated, and filed after the lapse of time. Further, the I Party has waited for the result in the case filed by the co-workers, who approached Hon'ble High Court of Karnataka. The success of co-worker of I Party in W.P. No. 5615/2001 and 26101/2001 before Hon'ble High Court of Karnataka inspired the I Party to file this dispute after the lapse of time. Hence, the conduct of the I Party does not deserve any relief at the hands of this Tribunal. Further, the II Party states that, the dispute raised by the I Party is liable to be dismissed on the ground of delay and laches, since the claim made by the I Party is stale and time barred. The II Party has conducted the Medical Examination and the said expert team have examined the I Party and found that, the I Party is not capable to work in a mine, in view of the fact that, the I Party has already reached the age of more than 58 years as on the date of Medical Examination. Further, as per the decision of Management, I Party has been terminated and also given opportunity to prefer an appeal before Appellate Medical Board within 30 days, if the I Party is aggrieved by the said Medical Report. The I Party, who has amicably received the terminal benefits from the II Party, has no right to raise present dispute, after the lapse of time, at the instigation, for the wrongful gain. It is relevant to submit that, the dispute referred by Government of India is itself not maintainable in law. Hence, there is no Industrial Dispute existed or is apprehended. The Medical Examination has been conducted in Scientific Manner on thorough investigation. The I Party is not entitled for any benefits as per law. The I Party is happily working elsewhere since from the date of termination. Further, the statement of the I Party that, the II Party officials failed to consider the reasonable request of the I Party is totally incorrect and false. In fact, the I Party is employed elsewhere and earning salary. The I Party has filed this dispute only for wrongful gain, at the instigation of well-wishers, as admitted by the I Party in the claim statement. The II Party has not acted illegally or arbitrarily. Therefore, the II Party prays to dismiss the dispute filed by the I Party with exemplary costs, in the interest of justice and equity.

4. Already this Court has passed common award dated 27.08.2014. Thereafter, in Writ Petition the Hon'ble Karnataka High Court, has passed the following Order:-

“The matter is remanded to the Central Government Industrial Tribunal Cum - Labour Court for fresh adjudication of the dispute. The Tribunal shall decide the dispute after giving notice to all the parties and pass an award in accordance with law. All the contentions of both the parties are left open.” Further, notices have been sent for both sides and additional evidence recorded and arguments heard and after the careful perusal and appreciation of material records in the proper perspective the present Common Award is passed.

5. The crucial points/issues that arise for consideration in the present matter are as follows:-

- (i) Whether the present claim has to be rejected on the ground of delay and laches as submitted by the II Party?
- (ii) Whether the I Party has to prefer an appeal as against the medical certificate issued by the medical officer as submitted by the II Party in the counter statement?
- (iii) Whether after the receipt of the terminal benefits, the I Party cannot raise any dispute in the present case?

- (iv) Whether the I Party is entitled to get the relief as claimed in the claim statement, after the careful appreciation of the evidences adduced and documents produced by both the parties, in proper perspective?

6. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 1:-

The I Party has clearly stated in the claim statement itself, and also in the deposition that, I Party belongs to socially and economically weaker section, and the I Party is the rural based worker, and used to work in mines which is in a remote place of a village and I Party is also an illiterate worker, belonging to economically weaker section, and not a fit person, to fight against the II Party and the I Party has repeatedly requested the officials of II Party mines for permitting the I Party to work and also, due to I Party's acute poverty, I Party has faced huge financial hardship to reach the Labour Department like Assistant Labour Commissioner and Conciliation Officer (C), Hubli from I Party's place, for raising the dispute and also, to set right I Party's grievances and in such circumstances, only the delay has happened for raising the dispute and the delay caused is not intentional and deliberate one, but only due to the above mentioned various reasons. The II Party has not specifically denied the above mentioned statements made by the I Party in the claim statement. Further, the I Party has also stated that, the officials of the II Party/Management have taken undue advantage of I Party's poverty, illiteracy, economic and social weakness by way of refusing employment, and also, after knowing fully, that the I Party is most incapable in approaching the Labour Authority for redressal of the I Party's grievances. The said details is also not specifically disputed by the II Party. Further, I Party has clearly stated in the claim statement that ultimately with great hardship, mental agony and with the help of well wishers, the I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the present central reference has been made to this Court by the Government of India, as per the above mentioned details. The said submissions made on behalf of I Party are also not specifically disputed on behalf of the II Party. On the other hand, the Assistant Manager of II Party, namely MW-1, has categorically admitted in his evidence that, I Party is an illiterate person. Further, the I Party has filed copies of Order passed in W.P. No. 5615/2001 dated 29.03.2001, W.A. No. 3460/01 c/w W.A. No. 3459/01 dated 12.06.2002 and W.P. No. 26101/01 c/w W.P. Nos. 23798/01, 23797/01 & 23794/01 dated 01.06.2006, as exhibits marked herein below and also MW-1 has admitted in his evidence that the success of the said co-workers in the said Writ Petition and Writ Appeal has inspired the I Party to file the present reference. In the above mentioned facts and circumstances, it is seen that, the I Party is justified in claiming the legal and statutory rights and benefits, due to the unlawful and illegal ways and means followed by the II Party to terminate the service of I Party, without following the principles of natural justice.

7. Further, the I Party has pointed out, in the claim statement, itself that, there is no limitation prescribed for raising the dispute and Article 137 Schedule of the Industrial Dispute Act is not applicable to the present case. Further, the Hon'ble Supreme Court of India, dated 03.12.2010, Mr. Hon'ble Justice. P. Sathasivam and Mr. Hon'ble Justice B.S. Chauhan, in Civil Appeal No. 10231/2010, between Kuldeep Singh Vs G.M. Instrument Design Development and Facilities Centre and Another, it is clearly held as follows:- "The Labour Court dismissed the claim of the appellant on ground of delay (of five and half years) in raising the dispute. The High Court confirmed the Labour Court's award. Hence this present appeal. The impugned award was set aside with costs of Rs. 50,000 to be paid by respondent-management to appellant." The Hon'ble Supreme Court observed that, there is no time limit prescribed for reference under section 10 of the Industrial Dispute Act, 1947. In the present case also, on a careful perusal of above said peculiar facts and vital circumstances and also due to the fact that, the I Party is facing poverty, illiteracy, economic and social weakness and also in the light of the above mentioned various citations, mentioned in the claim statement, it is seen that, the II Party is not justified in raising the objection to the effect that present reference is not maintainable due to the delay and laches. The I Party in the claim statement as well as in the evidence has pointed out that, the I Party is an illiterate and the I Party has repeatedly requested the II Party officials to provide employment in the II Party Organisation. Further, the MW-1, namely the Assistant Manager of the II Party has also admitted that I Party is an illiterate person and it is true to suggest that in the mines there is no shelter from sun and rain and it is true to suggest that there is no health unit and it is true to suggest that, the working conditions as per the mining act have not been provided at the mines. In such circumstances, it is crystal clear that, II Party has not provided the basic and statutory and also necessary facilities, for the proper working conditions and also, for the welfare of the I Party workers.

8. Further, Industrial Dispute Act is a social legislation brought into existence after various Industrial Revolutions, stage by stage and the said act has been enacted to provide minimum and basic facilities for workman and protect his/her employment. Further, II Party cannot take the super technical submission of delay and laches as a protective shield to cover up their lapses and violation of laws. Further, it is the well settled law that, I Party can initiate proceedings for the alleged illegal termination of services of workman en-mass by the II Party. Further, for the effective implementation of the Labour enactment and protecting the interest of workman only the Government have created a Labour Department. Further, it is very pertinent to point out that, the present reference is made by the Government of India, Ministry of Labour with the above mentioned schedule. Hence, this Court is bound to pass appropriate award in accordance with law based upon the facts and circumstances of the present matter. The II Party/Management cannot take super technical and hyper technical measures, so as to avoid payment of the legitimate

amounts, payable to the I Party/Workman. Further, it is clearly held in the judgment reported in 1995-II-LLJ 835, between H.S. Vasantsenaiah Vs The Divisional Controller, K.S.R.T.C & Anothers, as follows:- “Delay in approaching the Labour Court- No ground to deny back wages and other consequential benefits.”

9. Further, it is held in the judgment reported in 1999-LLJ-II-pg 482-483 [SC], between Mahavir Singh Vs U.P. State Electricity Board and others, as follows:- “Delay in raising dispute – Labour Court finding termination of workman’s service illegal-reference could not be rejected.” Also in the judgment reported in 2003-LLJ-I-pg 412-414 [MP], between Ramadhar Tiwari Vs Union of India and others, it is clearly held as follows:- “No limitation laid down for raising dispute under statute - dispute raised after about 5 years - not one which could be refused on ground of delay.” Again, in the judgment reported in 1994-LLJ-I-pg 468-471 [All], between U.P. State Spinning Mills Co. Vs State of U.P and others, it is specifically held as follows:- “Lapse of 11 years between raising a dispute and making reference does not lose the character of industrial dispute.” Further, in the judgment reported in 2002-LLJ-I-pg 1079-1081 [Del], between Mangal Singh Vs Presiding Officer, Industrial Tribunal No.1, Delhi and another, it is clearly held as follows:- “Relief under Industrial Dispute Act, 1947 not to be denied to workman merely on ground of delay.” Also, in the judgment reported in 2002-LLJ-I-pg 1129-1132 [Bom], between Haribhau S/o. Gaman Waghchaure Vs State of Maharashtra and another, it is clearly held as follows:- “Limitation Act does not apply to proceedings under Industrial Dispute Act, 1947- If plea of delay be raised, employer to show real prejudice caused by delay and not rely on it as mere hypothetical defense.” In the present case also, considering the above mentioned socio-economic conditions, poverty and illiteracy, of the I Party, it is found that, the appropriate relief, in accordance with law has to be granted to the workman and the same cannot be denied, as per the mere hypothetical defence taken by the II Party regarding the delay and in fact, the II Party has not established the real prejudice caused by the said delay.

10. Further, in the judgment in the case of Basti Sugar Mills Co. Ltd. Vs State of U.P., (1979) 2 SCC 88, by V. Kishna Iyer, J., it is pointed out as follows:- “Industrial Jurisprudence does not brook nice nuances and tortuous technicalities to stand in the way of just solutions reached in a rough and ready manner. Grim and grimy life-situations have no time for the finer manners of elegant jurisprudence.” Thus, the process of industrial adjudication is an onerous task being guided by the constitutional mandates and aiming at settlement of the industrial dispute on a fair and just basis, tested on the touchstone of social and economic justice. When an industrial dispute is raised, it is a commotion to be pacified by dispensing justice. In such adjudication, not just the right to equality and other Constitutional guarantees, but the aims and ideals of the Constitution enter into the consideration. It is the duty of the Courts to apply directive principles in interpreting the Constitution and the laws. Also, it is reported in Lloyds Bank Ltd Vs. Bundy, (1974) 3 All ER 757 that Lord Denning first clearly enunciated his theory of “inequality of bargaining power”. He began his discussion on this part of the case by stating (at page 763): “There are cases in our books in which the courts will set aside a contract, or a transfer of property, when the parties have not met on equal terms, when the one is so strong in bargaining power and the other so weak that, as a matter of common fairness, it is not right that the strong should be allowed to push the weak to the wall.” In the present case also, it is seen that, the II Party has clearly admitted in the counter statement that, the success of the co-workers of I Party in W.P. No. 5615/2001 dated 29.03.2001, W.A. No. 3460/01 c/w W.A. No. 3459/01 dated 12.06.2002 and W.P. No. 26101/01 c/w W.P. Nos. 23798/01, 23797/01 & 23794/01 dated 01.06.2006, has inspired the I Party to file the present reference and in fact, the I Party has specifically pointed out in the claim statement and evidence that, the I Party is an illiterate person and the I Party is facing poverty, economic and social weakness and the I Party has repeatedly requested the II Party officials to provide employment to the I Party and Assistant Manager of II Party MW-1 has also admitted in his evidence that, I Party is an illiterate person and also the II Party has not established the real prejudice caused to the II Party, by the said delay.

11. Further, the Hon’ble High Court of Karnataka, in W.P. No. 9974/2006 (L-TER) dated 07.01.2015, (Before Mr. Hon’ble Chief Justice D.H. Waghela and Mr. Hon’ble Justice Budihal. R. B), in the case of The Management of National Aerospace Laboratories Vs Engineering & General Workers Union and the Managing Directors, it is particularly held as follows:- “The jurisdiction of an Industrial Tribunal, therefore, is expansive and creative and not restricted to only enforcing or interpreting the contract of service or the extant legal provisions and it is not-fettered by the limitations of contracts and can even involve extension of existing agreement of the making of a new one, or in general, creation of new obligations or modification of old ones.” In the present case also, for the above mentioned facts and circumstances it is found that, I Party is entitled to get appropriate relief, in accordance with law, and the II Party is not justified in raising the objection on the ground of delay and laches, as per the said jurisdiction of the present Court. Thus, the point is answered in favour of the I Party.

12. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 2:-

The MW-1 the Assistant Manger of II Party, who has given evidence on behalf of II Party has admitted that, it is true to suggest that, there is no health unit and the working conditions as per the mining act have not been provided at the Mines. The said admission is also clinchingly established the various above mentioned allegation made as against the II Party. Further, MW-1 has admitted that, it is true to suggest that, as per the provisions of the mining act there

should be a qualified doctor to attend the I Party workers at the mining site. If it is so, then there is no need for the II Party to get the doctor from Hatti Gold Mines and to subject the I Party to medical examination. On that ground only, I Party has clearly stated in the claim statement that, as per the illegal medical certificate, the social and economic weaker section person of the I Party has been refused to continue the work by the II Party.

13. Further, MW-1 namely, the Assistant Manager of II Party/Management has admitted that the II Party company has suffered loss of 21 crores due to mis-management and it is also true to suggest that, due to the said mis-management, the financial crisis has occurred and it is true to suggest, having suffered the said loss the management thought of reducing the number of workers and it is true to suggest that, the Management ordered for medical examination of all the mining workers. For the said reasons only, I Party has categorically stated in the claim statement that, II Party has suffered huge loss due to mis-management and in the way of reducing the number of workers they have conducted illegal medical examination and terminated several workers including I Party. Further, MW-1 admitted that, to examine the workers doctors, have come from Hatti Gold Mines Ltd. However, he has admitted, that he does not know the names and qualifications of those doctors.

14. Further, in the counter statement the II Party has stated that, the I Party has been given opportunity to prefer an appeal before Appellate Medical Board within 30 days, if the I Party is aggrieved by the Medical Report. However, the MW-1 has categorically admitted that, it is true to suggest that, they have not produced the Medical certificate issued by the Doctor who has examined the I Party health condition and it is also true to suggest that, the Medical Form 'O' is in English language. At the same time, the MW-1 has admitted that, I Party workers are illiterate workers. Hence, it is found that the said medical certificate has not been issued in the language known to the workers/I Party and also not understood by the I Party and in fact, the said medical certificate is also not submitted to this Court by the II Party. In such circumstances, it is too much on the part of II Party to content that I Party has got the appeal remedy as per the medical certificate and the workers have not availed the appeal remedy and hence they cannot file the present case before this Court. Further, MW-1 has admitted in his evidence that, the Doctors have not conducted the medical examination in his presence and he does not know in what respect the I Party has been found unfit to continue in service and he has to verify in the office whether copy of notice issued to I Party after medical examination or acknowledgement regarding service of notice on the I Party is available or not. So, the MW-1 has not produced the relevant records to establish that, after medical examination, proper record has been issued to I Party to appeal before 30 days. On the other hand, MW-1 has categorically admitted that, II Party has not produced the Medical certificate issued by the Doctor who has examined the I Party. Above all, MW-1 has admitted that, it is true to suggest that, I Party has not been issued with charge sheet and no enquiry has been conducted before the termination of his service. The said categorical admission of MW-1 shows that, II Party has not terminated the I Party as per the principles of natural justice.

15. Further, MW-1 has admitted that, it is true to suggest that as per the clauses 18 and 24 any termination has to be followed by enquiry along with 3 months notice pay. However, MW-1 has admitted that, I Party has not been issued with charge sheet and also, enquiry has been conducted. Hence, it is crystal clear that, II Party has not terminated the I Party in accordance with law. Further, MW-1 has admitted that, termination order has not been attached with copy of Medical Certificate pertaining to I Party. Furthermore, MW-1 has admitted that, he does not know in what respect the Medical Officer opined that, the I Party is being medically unfit. Further, MW-1 has admitted that, it is true that, II Party has not taken any permission from Labour Ministry or Labour Secretary under the provisions of I.D. Act for terminating services of several employees on the basis of medical grounds. Further, MW-1 has specifically admitted in his evidence that, it is true to suggest that I Party is the illiterate person and it is true to suggest that company has not furnished to the I Party the Kannada Version/translation of Medical Certificate which is in English and the company has enhanced the age of employees to 60 years w.e.f 17.07.2008. In the light of the above mentioned facts and circumstances it is found that, the II Party is not justified in submitting that, the I Party has to prefer only the appeal as against the medical certificate issued by the medical officer. Thus, the point/issue is answered as against the II Party.

16. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 3:- The I Party has stated in the claim statement that, he is entitled to work till attending the age of superannuation and the I Party's actual date of birth is registered in EPF, B-register and Service records, etc and suddenly, the II Party has refused to provide employment to the I Party, as per the so-called illegal medical examination and the co-workers have challenged there pre-matured retirements and age certification before the Hon'ble High Court of Karnataka, viz.,

- (i) Writ Petition No. 5615/2001 between Smt. K.Dundamma Vs MML, and the same Management of II Party challenged the same in Writ Appeal No. 3460/2001 C/W W.No. 3459/2001. The said Appeal has been rejected on 12.06.2002 confirming the single Judge order dated 29.03.2001. In view of the said decision the Management reinstated the above mentioned pre-matured retired employee with payment of back wages, with continuity of service thereon.

- (ii) Writ Petition No. 26101/2001, C/W W.P. Nos. 23798/2001, 23797/2001 & 23794/2001 filed by Sri V.C. Range Gowda and 8 others Vs MML, and the same has been allowed on 01.06.2006. The MW-1, the Assistant Manager of II Party has also admitted the said details, in his evidence. Further, the I Party has specifically pointed out that, on account of administrative problems faced by the II Party, the II Party adopted its own tactics, ways and means for terminating the Mining Workers in short cut methods and also, in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to so-called Medical Examination during the year 1998 in illegal and irregular manner, without disclosing the true fact, to the I Party and also without notifying the so-called Medical Report i.e., not by a Doctor of a Rank of Assistant Civil Surgeon as defined in Rule 29-C of the Mines Rules 1995 and hence, the so-called Medical Examination conducted by the II Party is illegal and irregular, and the same is not having any legal sanctity and not sustainable in law as it is violative of Rule 29-C. The MW-1, Assistant Manager of II Party has candidly admitted in his evidence that, due to mis-management, the II Party has suffered administrative problems, and hence, the II Party has decided to terminate the services of the I Party workers.

17. Further, it is specifically pointed out by the I Party that, II Party has no right to refuse the employment to the I Party without following the due process of Law and the II Party used the illegal, imaginary, hypothetical and unscientific Medical report as its tool for unilaterally deciding the age of I Party and other workers even though the correct age is mentioned in the EPF, B-register and Service records, and I Party is hale and healthy and entitled to work up to the age of superannuation. In the evidence also, I Party has stated the said details mentioned in the claim statement. Further, in the cross-examination, I Party has clearly pointed out that, it is not true to suggest that, as per the request made by the union the II Party subjected the I Party to medical check up and found the I Party unfit to continue in service. In the additional evidence also, the I Party has pointed out that, it is not true to suggest that as on termination, all amounts due to I Party have been received and the I Party has filed the present case, without any justification. Further, the II Party has also not produced any relevant records, to establish that, the II Party has paid all the amounts due to I Party as on the date of termination. Further, it is observed in the judgment reported in 1984-I-LLJ 388(SC) as follows:- “Acceptance of retirement benefits – Acceptance of retirement benefits by the workmen concerned – Whether precluded from raising Industrial Disputes Challenging Orders of retirement. On the materials placed by the management, held, neither a case of acquiescence nor a case of waiver on the part of workmen was made out – Held, the workmen were entitled to wages for the period between the dates of retirement and the dates of their reaching the age of 58 years.” Also, in the judgment reported in 1997-II-LLJ 228(SC) it is held as follows:- “There is no statutory estoppels in favour of the Officer.” Further, it is the settled law that, there is no estoppel as against the statutory rights/benefits, which the I Party/workman is entitled to get under the provisions of the Industrial Disputes Act, 1947 and the II Party has also not established that, the action has been taken by the II Party as against the I Party, as per the principles of natural justice and also, as per the procedure and practice to be followed in accordance with law. In the light of the above mentioned reasons, facts and circumstances it is found that, the II Party is not justified in submitting that, after the receipt of the terminal benefits the I Party cannot raise any dispute in the present case and thus, the point/issue is answered as against the II Party.

18. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 4:-

The I Party has categorically stated that, due to mis-management the II Party has suffered a loss and hence, the II Party has found its own tactics, ways and means for terminating the mines workers in short cut methods and also in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to so-called Medical Examination during the year 1998 in illegal and irregular manner. Further, MW-1 has admitted in his evidence that the II Party has entrusted the work to private party in spite of availability of technical persons and machinery in the year 1995-1996 and hence, the II Party company has suffered a loss of about Rs. 21 crores and it is also true to suggest that, due to said mis-management the financial crisis occurred and also it is true to suggest that, having suffered the said loss the management thought of reducing the number of workers. Hence, it is clear that, the MW-1 of II Party has also admitted the said submissions made by the I Party in the claim statement. Further, MW-1 has admitted that, he cannot right now give the date, month and year of notice served to I Party and it is true to suggest that, I Party has not been issued with charged sheet and no enquiry has been conducted before the termination of the I Party. Further, MW-1, admitted that, it is true to suggest that as per the clauses 18 and 24 any termination has to be followed by enquiry along with 3 months notice pay. However, MW-1 has clearly admitted that 3 months notice pay has not been paid to the I Party by the II Party.

19. Further, MW-1 has admitted in his evidence that, it is true to suggest that, there is Statutory Report, B Register and Provident Fund Register. Further, I Party has categorically stated that, the date of birth has been entered in the Statutory Report, B Register and Provident Fund Register and the II Party without any valid reasons pre-maturely terminated the service of the I Party. Further, the date of birth of I Party mentioned in the claim statement is the same

as mentioned the employees register, which is marked as Ex M-1, except in the case of CR No. 25/2007 and also in CR No. 28/2008. In the case of CR No. 25/2007, the actual date of birth of workman as per Ex M-1 and Ex M-2 is 05.07.1947. In the case of CR No. 104/2007, as per Ex W-1, the date of birth of workman is 26.03.1956. In the case of CR No. 28/2008, as per the Ex M-1, the date of birth of workman is 14.07.1950. Also, the Circular relating to enhancing the superannuation age from 58 years to 60 years to the workers of II Party, is applicable only to persons who are in employment as on 17.07.2008. Further, MW-1 has clearly admitted that, it is true to suggest that, as per Clause 18.3 of CDPR rules, the changes in the date of birth, as entered in the company record, can only effected on a judgment of a competent Court and except on a judgment of a Court, the date of birth once recorded, will not be changed at the request of the Officer/Employee under any circumstances. For that reason only, I Party has clearly stated that, the II Party has terminated the service of I Party pre-maturedly without any valid reasons. Further, the act of the II Party, certainly, is not proper and legal and as much as, no valid reasons have been furnished by the II Party for not producing the medical certificate issued to the I Party by the II Party and no valid reason has been furnished by the II Party as to what prevented the II Party in not following the principles of natural justice and also for not producing the material records, though they are very important records, to prove the aforesaid details mentioned in the counter statement filed on behalf of II Party. Further, on the careful perusal of material records mentioned in the Exhibits list, it is seen that, II Party has refused to provide work to the I Party without following the due process of law. Further, it is found that, there is discrimination and also violation of fundamental right caused to the I Party and it is not proper and also, not legal to give forceful retirement to I Party, by the II Party, without following the due process of law.

20. Further, it is seen that, the II Party has not terminated the service of the I Party as per the Principles of Preponderance of Probability. Further, no injustice can be caused by the II Party to the I Party and I Party cannot be victimized due to the actions of the II Party without any valid reasons. Further, it is relevant to mention that, the I Party/workman has been punished by II Party without adopting the procedure known under law. Further, the underlying aim and object of adjudication of an Industrial Dispute is, in effect, dispensation of social and economic justice and translating fundamental rights as well as directive principles into some tangible relief. The ultimate object is to see that industrial disputes are settled by industrial adjudication on principles of fair play and justice. Further, the awarding of reinstatement does not amount to automatic conferment of back wages as held in 2009 (4) LLJ 667 (SC) Malla C.N. Vs State of Jammu and Kashmir & others. Further, it is held by the Hon'ble Supreme Court, in the case of APSRTC Vs B.S. David Pal, reported in 2006 (2) SCC 282, that the entitlement of back wages is not automatic on reinstatement. Awarding of back wages, depend upon other factors and circumstances. The I Party has pointed out in the claim statement that the I Party has been thrown out of employment and is facing hardship. In the affidavit also, the I Party has stated that with no financial income the I Party is facing great hardship. However, the claim of the workman that, the I Party is entitled for the full back wages, cannot be considered, having regard to fact that the I Party has not performed any work for II Party from 1998 to the date of superannuation, for the several years, and also, in order to balance the interest of both the parties, by adopting the balancing test or balancing process in the proper manner, this Court is of the considered opinion that in the facts and situation of the present case, 50% back wages and other consequential benefits only can be granted to the I Party. In the claim statement, the I Party has claimed interest, however the I Party has not enlightened the fact that the I Party is entitled to get interest also as prayed for in the claim statement by adducing relevant evidence and appropriate records. Hence, it is found that, the I Party is not entitled to get interest amount for the above mentioned factual reasons and also legal grounds.

21. Further, in the judgment reported in 2010-I-LLJ-861(SC), in C.A. No. 2874/2009, dated 28.04.2009, (Before Mr. Justice Tarun Chatterjee and Mr. Justice H.L. Dattu), in the case of Malwa Vanaspati & Chemical Co. Ltd. Vs Rajendra, it is held as follows:- “Back Wages – Entitlement for full back wages – Depends upon facts and circumstances of each case – Employee reinstated in service – Question of termination or reinstatement not in dispute – Employee only entitled to 50% back wages.” Also, in the judgment reported in AIR 2009 Supreme Court 240, in C.A. No. 5425/2008, dated 02.09.2008, (Before Mr. Justice Tarun Chatterjee and Mr. Justice Aftab Alam), in the case of M.P. Electricity Board & Ors Vs Maiku Prasad, it is held as follows:- “Industrial Dispute Act (14/1947), Sch. 2, Item 6 – Back wages – Curtailment – Respondents’ service terminated for unauthorised absence – Termination set aside by Labour Court – Direction for reinstatement and payment of full back wages passed – Considering long period between termination and reinstatement for which respondent has not worked – Back wages reduced to 50%.” Further, in the judgment reported in 2010-I-LLJ-861(SC), in C.A. No. 2874/2009, dated 28.04.2009, (Before Mr. Justice Tarun Chatterjee and Mr. Justice H.L. Dattu), in the case of Malwa Vanaspati & Chemical Co. Ltd. Vs Rajendra, it is held as follows:- “Back Wages – Not to be granted mechanically, upon termination of service being held illegal- Service of workman terminated in 1987 – Labour Court gave its award in 2002 holding termination illegal – In circumstances of case, 50% back wages held proper and payment thereof accordingly directed.” In the present case also, it is found that, the I Party is entitled to get 50% of the amount, out of the total amount of the monetary benefits with continuity of service, and other consequential benefits that I Party would have received in the absence of the impugned punishment of refusal to provide employment, by the II Party.

22. Further, in the judgment reported in 2009-I-LLJ 1 [SC], between Senior Regional Manager, TASMAL Ltd., and another Vs The M. Raviselvam, it is held as follows:- “Back wages-payment of back wages questioned- On reinstatement, full back wages is not to be paid automatically. It depends upon facts of each case. In the present case order for payment of back wages modified to the extent of 50% to be paid by the Management.” And in the judgment reported in 1999-LLJ-I-pg 1260-1265 [SC], between Ajaib Singh Vs Sirhind Co-operative Marketing-Cum-Processing Service Society, it is clearly held as follows:- “Delay in seeking relief by workman against Termination of Service- Article 137 of Schedule to Limitation Act not applicable to proceedings under I.D. Act – Workman entitled to 60% of back wages.” Further, in the judgment reported in 1990 [61] FLR 768, between Delhi Transport Corporation Vs D.T.C. Mazdoor Congress and others, it is held as follows:- “A confirmed and permanent employee-Terminated without one month’s notice or pay in lieu of and without holding enquiry and affording any opportunity-Termination was illegal-Principles of natural justice violated.” In the present case also, the II Party has terminated the I Party without following the Principles of natural justice and without holding enquiry and also without offering opportunity to the I Party to put forth his/her defence. Further, in the judgment reported in 2010-I-LLJ 682 [Bom], between Santhosh Kumar, S/o Babulal Gupta Vs Sub-Area Manager, Western Coal Fields Ltd., Maharashtra and another, it is held as follows:- “Dismissal of workman from service – no enquiry held – termination order not served on workman – punishment held disproportionate – deprivation of 50% back wages with warning issued to workman held would be proper.” Further, the II Party has stated in the counter statement that, the I Party, on medical examination, has found to be unfit to work. However, in the same counter statement II Party has stated that, I Party is happily working elsewhere since the date of termination and the I Party is working elsewhere also earning salary. In such circumstances, it is seen that, the submissions made by the II Party in the counter statement are self contradictory. On that ground also II Party is not justified in terminating the services of I Party without following the principles of natural justice, fairness and reasonableness. Further, on the totality of the above mentioned facts and circumstances, and also, after taking into consideration the evidences and exhibits mentioned herein below, in the proper perspective, the following award is passed, in the best interest of justice, equity and fair play.

(i) **In C R No. 25/2007 Mariyamma Vs MML**

AWARD

The II Party/Management is not justified in imposing the punishment of termination of I party/ Mariyamma with effect from 29.06.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 29.06.1998 till the I Party attains the age of retirement i.e, 05.07.2005 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(ii) **In C R No. 103/2007 H. Thimmegowda Vs MML**

AWARD

The II Party/Management is not justified in imposing the punishment of termination of I party/ H. Thimmegowda with effect from 28.06.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 28.06.1998 till the I Party attains the age of retirement i.e, 21.11.2002 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(iii) **In C R No. 104/2007 K.L. Shivegowda Vs MML**

AWARD

The II Party/Management is not justified in imposing the punishment of termination of I party/ K.L. Shivegowda with effect from 28.06.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 28.06.1998 till the I Party attains the age of retirement i.e, 26.03.2014 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(iv) **In C R No. 25/2008 Singamma Vs MML****AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/ Singamma with effect from 28.06.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 28.06.1998 till the I Party attains the age of retirement i.e, 03.11.2008 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(v) **In C R No. 28/2008 A. Nanjegowda Vs MML****AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/A. Nanjegowda with effect from 16.04.1998 and II Party is directed to pay to the I Party 50% of the amount out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 16.04.1998 till the I Party attains the age of retirement i.e, 14.07.2008 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 30th June, 2017)

V. S. RAVI, Presiding Officer

(i) **In C R No. 25/2007 Mariyamma Vs MML****List of Witness on the side of I Party:**

WW 1	Smt. Mariyamma, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	29.06.1998	Termination order issued to I Party
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-5	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees
Ex M-2	-	Employees Service Record

(ii) **In C R No. 103/2007 H. Thimmegowda Vs MML****List of Witness on the side of I Party:**

WW 1	Sh. H. Thimmegowda, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	29.06.1998	Termination order issued to I Party
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-5	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(iii) **In C R No. 104/2007 K.L. Shivegowda Vs MML****List of Witness on the side of I Party:**

WW 1	Sh. K.L. Shivegowda, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Membership Application Form issued by II Party
Ex W-2	22.05.1987	Office Order No. 37/PER/1986-87/8653 issued by II Party
Ex W-3	29.06.1998	Termination order issued to I Party
Ex W-4	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-5	12.06.2002	Order passed in W.A. No. 346/2001 c/w 3459/2001
Ex W-6	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-7	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

(iv) **In C R No. 25/2008 Singamma Vs MML****List of Witness on the side of I Party:**

WW 1	Smt. Singamma, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	29.06.1998	Termination order issued to I Party
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-5	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(v) **In C R No. 28/2008 A. Nanjegowda Vs MML****List of Witness on the side of I Party:**

WW 1	Sh. A. Nanjegowda, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	22.05.1998	Termination order issued to I Party
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-5	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1794.—राष्ट्रपति, केन्द्रीय सरकार औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय, नागपुर के पीठासीन अधिकारी के पद पर केन्द्रीय सरकार औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय संख्या 2, मुम्बई के पीठासीन अधिकारी श्री देशपांडे मल्हार विश्वनाथराव के अतिरिक्त प्रभार की अवधि दिनांक 06.05.2017 से और 06 महीनों की अवधि, अथवा नियमित आधार पर इस पद के भरे जाने तक अथवा अगले आदेश तक, जो भी पहले हो तब तक, के लिए बढ़ाते हैं।

[सं. ए-11016/03/2009-सीएलएस-II]

एस. के. सिंह, अवर सचिव

New Delhi, the 24th July, 2017

S.O. 1794.—The President is pleased to extend the period of additional charge of the post of Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur to Shri Deshpande Malhar Vishvnathrao, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai for a further period of 06 months with effect from 06.05.2017 or till the post is filled on regular basis or until further orders, whichever is the earliest.

[No. A-11016/03/2009-CLS-II]

S. K. SINGH, Under Secy.

नई दिल्ली, 24 जुलाई, 2017

का.आ. 1795.—राष्ट्रपति, श्री अवतार चन्द डोगरा, पीठासीन अधिकारी, केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, दिल्ली-I को केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय संख्या दिल्ली-II, के पीठासीन अधिकारी के पद का अतिरिक्त प्रभार दिनांक 20.07.2017 से छः महीनों की अवधि अथवा नियमित आधार पर पद के भरे जाने तक अथवा अगले आदेश तक, जो भी पहले हो, सौंपते हैं।

[सं. ए-11016/02/2015-सीएलएस-II (अ)]

एस. के. सिंह, अवर सचिव

New Delhi, the 24th July, 2017

S.O. 1795.—The President is pleased to entrust the additional charge of the post of Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Delhi-II to Shri Avtar Chand Dogra, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Delhi-I for a period of six months with effect from 20.07.2017 or till the post is filled on regular basis or until further orders, whichever is the earliest.

[No. A-11016/02/2015-CLS-II(e)]

S. K. SINGH, Under Secy.